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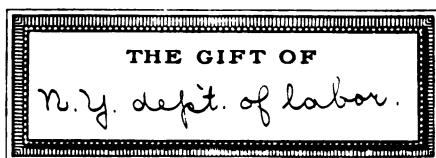
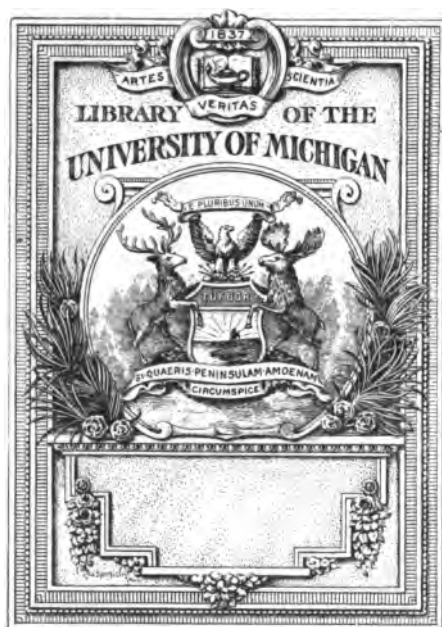
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NEW YORK STATE DEPARTMENT OF LABOR

TENTH ANNUAL REPORT

OF THE

COMMISSIONER OF LABOR

FOR THE TWELVE MONTHS ENDED SEPTEMBER 30

1910

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TRANSMITTED TO THE LEGISLATURE FEBRUARY 6, 1911, AS PART OF THE  
TENTH REPORT OF THE DEPARTMENT OF LABOR

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ALBANY  
STATE DEPARTMENT OF LABOR  
1911

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No. 26-A.

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## IN ASSEMBLY

FEBRUARY 6, 1911.

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TENTH ANNUAL REPORT

OF THE

COMMISSIONER OF LABOR.

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STATE OF NEW YORK:

DEPARTMENT OF LABOR,

ALBANY, *February 6, 1911.*

*To the Legislature:*

Pursuant to law, the annual report of the Commissioner of Labor for the year ended September 30, 1910, is herewith submitted. Appended thereto will be found the general reports of those bureaus of this Department, concerning whose operation the Commissioner of Labor is required to report annually.

Respectfully,

JOHN WILLIAMS,

*Commissioner.*

226830

*New York City: 8-24-11-8*



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**ANNUAL REPORT**  
**OF THE**  
**COMMISSIONER OF LABOR.**



## REPORT OF THE COMMISSIONER OF LABOR.

### *To the Legislature:*

Pursuant to law, I herewith submit my annual report for the year ended September 30, 1910. Besides his own report the law specifies that the Commissioner of Labor shall make report of "the operation" of each of the several bureaus of the Department, except the Bureau of Labor Statistics. Accordingly I append hereto the general reports of those bureaus. More detailed information concerning the work, or field of work, of the bureaus will appear later in statistical reports, which, because of the time required for their preparation and printing, cannot be presented at this time.

### PRINTING AND PUBLICATIONS.

The following publications, other than circulars or posters, have been issued by the Department during the year:

#### Annual Reports for 1908:\*

Twenty-third Annual Report of Bureau of Factory Inspection. (August.)

Twenty-second Annual Report of Bureau of Mediation and Arbitration. (August.)

Twenty-sixth Annual Report of Bureau of Labor Statistics. (Part I in October, 1909; Part II in August, 1910.)

#### Annual Reports for 1909:

Ninth Annual Report of the Commissioner of Labor. (January.)

#### Quarterly Bulletins:

No. 43 (March, 1910).

No. 44 (June, 1910).

No. 45 (September, 1910).

Monthly Bulletin of Licensed Tenement Houses (twelve issues).

Pamphlet of Laws relating to Labor in Factories and Mercantile Establishments (July).

### OFFICES.

For some time past attention has been directed each year to the overcrowded condition of our official quarters in the capitol. It is now worse than ever before. On account of additional work

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\* The Annual Report of the Commissioner of Labor for 1908 was published in January, 1909.

imposed upon the Department through the legislation of 1910, we were obliged to increase our office force by the addition of three persons. We have endeavored to gain space by eliminating unnecessary furnishings and substituting more compact and convenient articles. It is, however, true that we have passed beyond the endurable limit, and we are eagerly looking for relief when the education building will be ready to receive its tenants.

In New York City the Department sub-office had increased beyond the capacity of the quarters occupied at No. 114 East Twenty-eighth street. A very convenient and commodious suite of rooms was leased at No. 381 Fourth avenue, Manhattan, at an annual rental of \$3,800. Provision was not made for the Bureau of Industries and Immigration, added to our organization October 1, 1910; this will have to be done.

#### ORGANIZATION.

The legislation of 1910 effected a change in the organization of the Department by adding thereto a new bureau. Several minor changes were made in the personnel of the bureaus. The total force of the Department, now provided for, consists of 120 persons, distributed as follows:

*The Department of Labor.*—The commissioner, an assistant or counsel, two special agents, a confidential clerk, a confidential agent, an auditing clerk, one stenographer and a page.

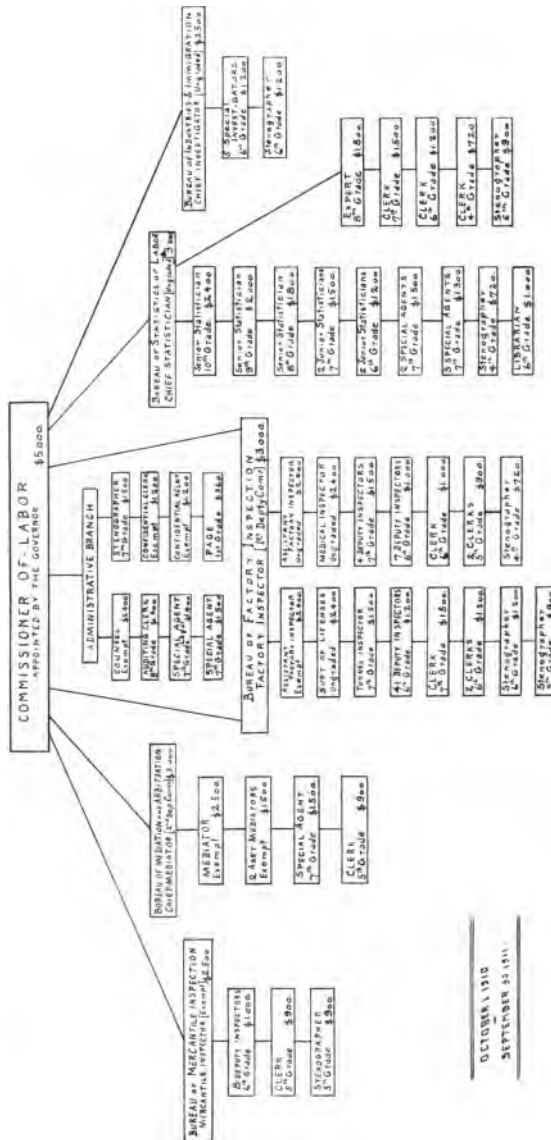
*The Bureau of Factory Inspection.*—The factory inspector (first deputy commissioner), two assistants, superintendent of licenses, medical inspector of factories, a tunnel inspector, fifty-two deputy factory inspectors, and nine clerks or stenographers.

*The Bureau of Labor Statistics.*—The chief statistician, seven statisticians, one expert, five special agents, three clerks, two stenographers, and a librarian.

*The Bureau of Mediation and Arbitration.*—The chief mediator (second deputy commissioner), mediator, two assistant mediators, a special agent, and a clerk.

*The Bureau of Mercantile Inspection.*—The mercantile inspector, eight deputy mercantile inspectors, a clerk, and a stenographer.

OCTOBER 1910  
SEPTEMBER 30 1911





*The Bureau of Industries and Immigration.*\*\*—The chief investigator, five special investigators, and a stenographer.

The first four of the above mentioned bureaus performed their functions throughout the year with characteristic and praiseworthy zeal. The last mentioned came into existence with the close of the official year; hence it has no history nor record of accomplishment for 1910.

#### BUREAU OF FACTORY INSPECTION.

Regarding the observance of the provisions of the eight-hour law on public work, the Department is not in a position to speak authoritatively, except in the light of complaints of violations that are filed. Assuming this to be a fair standard, it must be said that the law is practically lived up to. Forty complaints or allegations of violations were received and investigated. In twenty-five of these cases a violation of the law was established and the required notices promptly served. Violations were not found in the remaining fifteen.

It would appear that contractors engaged upon public work realize the grave danger incurred even in unintentional violations of this law; the penalty clause, if enforced, is so severe as to be ruinous. I am of the opinion that this feature of the law, in its practical effect, serves to lessen the number of violations; but the administrative features of the law should provide for a responsible and orderly procedure in regard to enforcement. I called attention to this matter in my last annual report.

#### PAYMENT OF WAGES BY CORPORATIONS.

The subject of wage payments by corporations has attracted considerable attention in this state during the past two years. The immediate cause was the amendment of the law relating to the subject by the Legislature of 1908 so as to require railroad corporations to pay their employees twice a month. In my last annual report (pages 17 to 20) reference was made to the resistance offered by railroad corporations to the amended law. The Appellate Division of the Supreme Court, Third Department, up-

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\*\* Organized October 1, 1910.



held the law; the case went to the Court of Appeals, and on June 14th that court by unanimous decision sustained the lower court.\*

Since the decision of the Court of Appeals was announced, the Delaware, Lackawanna and Western and Erie Railroad companies have been called to plead to indictments found against them in the county of Broome. They pleaded guilty on six counts, and Justice Gladding of the Supreme Court imposed the minimum penalty (\$100) in each case. According to our information, every railroad corporation in the state is now obeying the law.

Several complaints came to the Department during the year, that certain corporations engaged in manufacturing and contracting were violating the weekly payment law. As soon as a complaint is received and is sustained upon investigation, an order is served upon the offending corporation, directing compliance with the law. If a subsequent investigation shows that the order has been disregarded, steps are taken to compel obedience. This sometimes takes the form of criminal prosecution under the provisions of the Penal Law; in other cases, proceedings are had under section 12 of the Labor Law and a penalty of fifty dollars is sued for. In ordinary cases, the latter is the best method. It is simple and easy and the penalty is sufficiently heavy to impress upon the offender the importance of complying with the law. We have found that many of the contractors on the Barge Canal pay their employees twice a month. They have urged upon us the impossibility of a literal compliance with the law; their headquarters almost invariably are some distance from the work, and the payrolls have to be sent away to be audited, so they have pleaded for some leeway. Under an opinion rendered by an Attorney-General some years ago,† the Department has accepted payments every two weeks in full as a substantial compliance with the law. Payment twice a month is virtually payment every two weeks, and inasmuch as these payments are made regularly, we can see no reason for objecting to the arrangement.

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\* *N. Y. C. R. R. Co. v. Williams*, 199 N. Y. 108. See opinion reprinted in Department Bulletin, June, 1910, p. 207.

† Report of Attorney-General, 1894, p. 380.

## TUNNEL INSPECTION.

The tunnel inspector's report (in Appendix II) is a brief but interesting document. It appears that during the year just ended there were forty-nine tunnels or sections under construction, and foundation work requiring the use of 127 caissons. The number of persons employed in these operations was 8,190, or an increase of 60 per cent over the year 1909. The number of accidents reported to the bureau still remains high; it is only slightly below ten for each one hundred employees. The number of fatalities went up to forty-nine. It appears from the report of the inspector and from an examination of the data submitted with reference to these fatal accidents, that a majority of them were due to careless handling of explosives. No amount of inspection, however strict, can ever overcome a lack of care nor eliminate danger if the sense of danger be so deadened as to permit recklessness on the part of those who are exposed to danger. So long as the employer uses ordinary care and complies with all reasonable regulations for safety, and, so far as he can, enforces obedience to prescribed rules upon his employees, he escapes criminal liability, and the person whose carelessness causes the accident frequently suffers the consequences in his own disability or death. It is difficult to see what can be done to guard against such happenings. The civil liability of the employer is undoubtedly the most potent influence to compel him to employ every precaution for the safety of his employees. It appears that the constructors of tunnels and those engaged in compressed air work are giving close attention to this question. The fact is that the new law relating to employers' liability and workmen's compensation is doing more to insure the safety of workers in hazardous occupations than any system of state inspection or supervision could be expected to accomplish. This is as it should be. The men who accept employment in such undertakings should be protected so far as human foresight and ingenuity can accomplish such a result, and the duty of safeguarding properly rests upon the employer.

In connection with the work of the tunnel inspector, an interesting query has occurred to me, viz: Does Article IX of the Labor Law apply to such parts of subway construction in the city of New York as are excavated in open cuts? These subways

when completed are tunnels; therefore, it may properly be said that all work thereupon is work done "in the construction of tunnels," and consequently subject to inspection by the Commissioner of Labor. I have concluded to hold that we have authority, and have instructed the tunnel inspector accordingly.

I would direct special attention to the reference in the tunnel inspector's report to the attitude of those engaged in compressed air work with respect to the comfort and safety of their employees. The hazards attending this class of work are fully realized — perhaps more so by the employers than by their employees. It is significant that no complaint relating to this subject was received during the year.

#### MEDICAL INSPECTION OF FACTORIES.

The report of the medical inspector of factories is contained in Appendix II. In this report the medical inspector has undertaken to discuss questions relating to factory hygiene at some length. He offers many suggestions to which serious attention is invited. Special reference is made to industrial diseases. We are sadly lacking in information regarding this subject in its relation to New York industries. Our law should be amended so as to incorporate therein substantially the requirements of the British Factory Act, under which every medical practitioner called to attend upon a person whom he has reason to believe is suffering illness caused by inhaling or absorbing poison, or by any other cause directly connected with such person's employment, is required to report the facts to the factory inspector. If this recommendation be adopted, as a corollary to such amendments the Commissioner of Labor should be authorized to prescribe certain rules and regulations for the protection of all persons who may from time to time be subject to the dangers incident to their occupations. There is no satisfaction to the administrator of law in the mere knowledge that danger exists under certain conditions, unless he possesses the power to cause the source of danger to be eliminated.

Three industries were under special investigation by the medical inspector during the year. Two were completed, namely: the phosphorus match and pearl button industries. The results of

these investigations are given in connection with the medical inspector's report in later pages.

Dr. Rogers makes certain definite recommendations which deserve serious consideration. It must be obvious even to the lay mind, that the safety of those who work at these occupations demands action. I am not seeking an extension of the discretionary powers of the Commissioner of Labor. An arbitrary rule of law is much easier to enforce. On the other hand, the varying conditions which prevail in different industries make arbitrary rules inadvisable and in many cases unnecessarily burdensome. We should have power to prescribe rules, which, however, should not become effective until after a hearing at which interested parties could have opportunity to express their approval or disapproval.

#### BUREAU METHODS.

Not many changes in methods were instituted during the past year. Some changes in assignments were effected, all with a view to greater efficiency.

It is pleasing to note that my recommendation of last year, that provision be made for a few increases in salary of deputy factory inspectors, was favorably considered. As a result we were enabled to promote two inspectors from \$1,200 to \$1,500 and to increase a few from \$1,000 to \$1,200 per annum. These promotions are a source of help and stimulus to the entire service.

Two members of the bureau staff, deputies William Ford and Luman S. Arnold, were summoned by the grim messenger, the former on June 7 and the latter on July 4. Both of these men had rendered service to their country in the time of its need, from 1861 to 1865, and in August, 1899, they entered the state service as deputy factory inspectors. They were faithful and conscientious servants, but the march of time told upon them. They were privileged, however, to remain on active duty until the last.

#### GENERAL FIELD WORK.

The report of the factory inspector as usual contains certain tables which review in brief the important features of the work of the bureau.

Table 1 contains a statement showing the activities of inspectors for the last four years. The steady growth of this work from year to year is quite clearly set forth and the record is perfectly free from evidences of padding. In 1907 the bureau had an effective field force of 50 inspectors; yet in 1910, with the same number of inspectors, the total regular inspections are just 10,000 more than were recorded four years previous. The bulk of this increase came from the change in methods of tenement-house inspection. But it is, of course, obvious that this increase could not have been accomplished without a corresponding increase in physical energy expended, and the force is entitled to credit for its willingness to devote itself to its work.

During the year 1911 we shall be able to do better than in any past year, for we have been enabled to perfect the organization of this bureau. We shall give greater attention to a thoroughly practical enforcement of the requirements of the law in relation to safeguarding of machinery.

Last year attention was directed to the fact that the efficiency of a number of our inspectors was affected by the "growing infirmities of advancing years." In the very nature of things, this condition will continue to grow upon us until a plan is devised and adopted under which persons of a given age may be retired from the service. The question of the establishment of a civil pension list is far too important and serious to be discussed in a departmental report. It should be considered by a special commission authorized to look into it in all its aspects.

#### TENEMENT INSPECTION.

The superintendent of licenses reports to the factory inspector the inspection of tenement houses immediately under his supervision in Greater New York. About 12,000 licensed buildings were inspected. Of this number about 450 were what are known as rear-shop buildings. It appears that actual work subject to section 100 of the Labor Law, at the time of inspection, was found in about 13,000 apartments, and that about 20,000 persons were at work. It does not follow, however, that this represents the amount of manufacturing done in tenement houses, for our inspectors are in a given apartment on one day in the year, and the

probabilities are that even though there be no work upon the occasion of the inspector's visit, there is work going on upon many other days. Nevertheless, it is worth noting that sanitary conditions in these tenement homes are infinitely better than they used to be a few years ago. This is the result of the work of two departments, namely, the Tenement House Department of the City of New York and the State Department of Labor.

It appears from the records that only 150 persons were found working illegally — i. e., in unlicensed buildings — and that only 77 children of school age were reported at work during school hours. There is no doubt in my mind, however, that the number of children who work in their homes on articles mentioned in section 100, is very large, especially in certain sections of New York and at certain seasons. I believe the state should take cognizance of this matter. This form of child labor should be prohibited and provision should be made for the effective enforcement of such restrictions. Article VII of the Labor Law should be amended so as to prohibit the employment of a child under the age of twelve years in any tenement apartment or dwelling house, upon any work mentioned in section 100 of said law; and to insure the observance of such a provision, adequate penalties should be provided. As a corollary to this proposed change, if adopted, there should be a very substantial increase in the facilities of this bureau for its enforcement.

The effect of this proposal should be clearly understood. It would tend to lessen very materially the employment of tenement workers, and if such a result were brought about, assuming that the home work is essential for the proper maintenance of the home, the question of what would become of the family is not only pertinent but very important. One of two things would happen: that family would become a burden upon the community, or it would seek quarters where rents are lower and opportunities for subsistence more promising. This may be one way to relieve the congestion of population in our larger cities.

#### VENTILATION.

Academic discussion of this subject is quite unnecessary. It is conceded to be an important factor in the efficiency of factory operatives,

We have made some progress in the enforcement of this requirement, but there is yet a tremendous amount of work to be done. For more than a year we have been moving somewhat slowly because there arose considerable agitation over the question of a standard of ventilation applicable to factories, under section 86 of the Labor Law. I have held that in the absence of a legally defined standard, I was not only authorized to establish such a standard, but had I failed to do so, I would be guilty of neglect of official duty. Section 62 of the Labor Law, subdivision 4, reads as follows: "The commissioner of labor shall visit and inspect or cause to be visited and inspected the factories \* \* \* and shall cause the provisions of this chapter to be enforced therein." Section 86 is a part of the law included in the chapter referred to. It follows, therefore, that I was required to enforce the terms of that section which prescribes as follows: "The owner, agent or lessee of a factory shall provide, in each work-room thereof, proper and sufficient means of ventilation, and shall maintain proper and sufficient ventilation."

It is quite proper to assume that when the Legislature enacted the above provision, it did not deem it advisable to attempt to define the means nor the standard of ventilation. But to say that it deliberately recognized the need of such regulations and created the machinery for their enforcement, and yet left the administrative officer without any authority to construe its will, reduces the legislative act to a farce and a cruel hoax.

I am firmly of the opinion that where the authority of an administrative officer is questioned and the law is silent upon the point at issue, it is better to go to the Legislature with a request for an expression of its will. Consequently, last year, after several conferences with representatives of interests affected, a bill was introduced in the Senate and Assembly, amending the law so as to establish a standard of ventilation, and defining the respective responsibility of landlord and tenant in regard to the subjects of installation and operation. The bill provided for a qualitative standard of ventilation measured by the amount of carbon dioxide in a given volume of air, and placed the responsibility for installation of proper means for ventilation upon the owner of the property, except that this responsibility could by

contract be assumed by the tenant or lessee. The responsibility for operating or utilizing the means for ventilation so provided was placed upon the tenant or person in actual possession of the workroom. Opposition developed to this proposal upon the ground that the qualitative standard was a new and strange thing and too intricate and difficult for ordinary persons to comprehend. The opponents of our bill wanted a quantitative or volumetric standard. We were unable to arrive at a satisfactory understanding, and in consequence the Legislature adjourned without declaring itself upon this important question.

For a time at least, during the year, it looked as though we would get the question of the authority of the Commissioner of Labor to prescribe a standard of ventilation before the Appellate Division upon an agreed statement of facts; but at the last moment, the prospective defendant of record backed out. So our activity in regard to ventilation is upon the basis of a standard of air purity prescribed by the Commissioner of Labor; and until the Legislature amends the law, or until a competent tribunal declares that the Commissioner of Labor is not clothed with authority to prescribe such standard, we expect so to continue.

All uncertainty regarding a matter of such importance should be removed. The Legislature during the coming session should settle these questions of standard and responsibility, so that those who work may enjoy more fully the benefits of pure air. Bills will be presented early in the session in both Senate and Assembly, and it is my earnest hope that decisive action will be taken before the Legislature of 1911 passes into history.

#### SANITATION

That the field staff of the Bureau of Factory Inspection is inadequate to insure the maintenance of comparative cleanliness in all factories must be self-evident. And as freedom from contact with filth, dust and other tangible impurities is an essential element in the preservation of health, and as the state has enacted laws to compel the owners of manufacturing business to observe certain standards of cleanliness, it follows that the obligation to enforce the legislative mandate is unavoidable. Broadly stated, we have fifty inspectors to cover forty-five thousand factories and from twelve



to fifteen thousand tenement houses. A very large percentage of the factories are small places employing from five to fifty persons; they are engaged in manufacturing in a small way and their chief concern is a maximum output at a minimum cost. Under these circumstances, they regard the time spent in cleaning their work-rooms as time lost and money wasted; they resist the efforts of the bureau to the limit of their resources. One or two visits to such places in the course of a year do not amount to much. To guard the health of the workers therein and the health of the community or the consumer of the product is a solemn duty. It cannot be done unless we can make repeated visits, and until the bureau has been equipped properly it is neither fair nor just to hold its officers responsible for the conditions which from time to time are found to exist in many establishments. The organization of the bureau is well adapted to deal with this feature of its work. The trouble is, it has to spread itself so thinly over a vast field that it cannot concentrate its efforts in one direction without neglecting other duties. To increase the force of inspectors to a point where it could effectively perform all its functions, would mean a large addition to the cost of administration; but I do not think there should be any hesitation if it be true that the industrial efficiency of our factory population is dependent upon the establishment and maintenance of hygienic conditions in their places of employment — and upon that point there can be no dispute.

#### BAKERIES.

No more important duty devolves upon the Bureau of Factory Inspection than the inspection of bakeries and the enforcement therein of the special provisions of law relating thereto. The summary methods of enforcement authorized by section 114 have produced good results. The tag bearing the word "unclean" was applied in 191 bakeries during the year. This operation is by no means simple or easy. It calls for the attention of three inspectors, and in almost every case in Manhattan it has been necessary to appeal to the police department to prevent forcible interference with the inspectors' work. The effect of the summary suspension of business by this means, because of unsanitary conditions, is felt very keenly, and it has a tendency to elevate the standards of cleanliness of many of the poorer grade of bakers.

Department counsel has brought to my attention certain defects in Article VIII which should be remedied. One instance is found in section 112. It is provided that the "furniture and utensils shall be so arranged as to be readily cleansed," but the duty of cleaning either the utensils or the room is not imposed upon the owner of the business except by implication. It would be well to have this article carefully redrafted so as to eliminate all defects and incongruities.

#### CHILD LABOR.

The report of the factory inspector sustains the statement contained in my last annual report, that "the problem of child labor in the factories of this state is well in hand."

The record shows that while the number of children found at work during 1910 was almost two thousand in excess of the number found in 1909, the percentage of illegal employment fell off practically one point. The number of children under 14 who were working when inspections were made, was relatively insignificant; nevertheless we do not intend to slacken our efforts to eliminate that form of lawbreaking.

I approve most heartily the comments of the factory inspector with reference to the need of prescribing a rigid physical test to which each child shall be subjected before it can obtain an employment certificate. Under the British Factory Acts this is necessary. Each child must be examined by a certifying surgeon before it is permitted to work in a factory or workshop. If we are to have further development in the matter of regulating child labor in our factories, it should be along the lines suggested, and also with a view to adding to the group of prohibited employments as rapidly as our experience and observation establish the need of such steps.

#### PROSECUTIONS.

It will be noted that the Bureau of Factory Inspection continued throughout the fiscal year its policy of bringing to account persistent and flagrant violators of the law.

Ninety-one cases carried over from the preceding year were tried and disposed of. In addition to that, 529 cases instituted

within the year were brought to final issue. Results in both groups together were as follows: convictions, 508\*; acquittals or dismissals, 94; withdrawn, 18. Fines were imposed in 230 cases, aggregating \$5,390, or an average of \$23.43 for each case. In 1909 fines were imposed in 242 cases, aggregating \$5,475, or an average for each case of \$22.62.

The number of suspended sentences which appear on our record is far too high. I am convinced that if judicial officers manifested a determination not to suspend sentences, there would be fewer violations brought before them, for employers would be more keen to observe the law.

#### ACCIDENTS AND SAFETY.

Accidental injuries sustained in the course of employment are so numerous as to cause serious economic loss. This fact, perhaps, more than a realization of the physical suffering of the injured, has in recent years led to the centering of attention upon this subject. To-day it is agreed that the comparative safety of all persons employed in industrial pursuits is a matter of great public concern, and interest is especially centered upon the activities of those agencies which have been created, in part at least, for the express purpose of dealing with the problem of preventing such happenings.

It is a well-known fact that state inspection of factories wherever instituted, has been undertaken with a view not merely to correct administrative evils, such as the employment of children of tender years and the excessive hours of labor of women and children, but also with a view to greater safety.

The Bureau of Factory Inspection, by virtue of the provisions of section 87, receives, examines and records the reports of accidents occurring in factories. Mr. Walling in his report has indicated the practice of the bureau in relation to accidents which happen in connection with the operation of machinery. I feel that what we have been doing is not enough. Every serious accident, which may reasonably be deemed preventable, should be carefully investigated by an inspector of proved capacity and judgment, in order that full effect may be given to that part of

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\* This item includes both convictions after trial and cases where defendant pleaded guilty.

section 87 which provides that the Commissioner of Labor "may \* \* \* require such precautions to be taken as will prevent the recurrence of similar happenings." This is not generally done now because we are not equipped to undertake the close supervision that such a practice would entail.

That many accidents are preventable will be readily admitted. It is to this task of prevention that our energies should be bent; but our work must be done intelligently, with due regard for both human and commercial interests. The amendment of section 87, enacted last year, was designed to insure a more general reporting of accidents. This was with a view to placing in our hands more accurate and definite data concerning the nature and extent of the problem. This is important, not merely as furnishing a guide to us, but it means much to those who must finally decide whether the work of inspection should be strengthened and extended.

It was a source of much satisfaction to me to find that the Commission on Employers' Liability had decided to give special attention to the causes and prevention of industrial accidents. I feel that a careful inquiry conducted under such auspices can produce but one result, namely, the awakening of our people to a fuller realization of the social and economic value of an efficient inspection service, clothed with power to enforce its requirements in the interests of safety. The consequences of such an awakening, it may safely be predicted, will be manifested in ample provision for effective law enforcement.

Responding to a formal request of the Commission above mentioned, I undertook to examine the means employed to prevent accidents in the factories of the United Kingdom. I left New York on July 13th and returned to the same port on September 15th, having covered meanwhile extensive areas in the British Isles, visiting establishments in many of the important manufacturing centers. I also visited the museum of safety in Paris, and examined a similar institution in Amsterdam. The record, observations and conclusions of that trip will be preserved in a special report to the Commission and in an early issue of the department Bulletin. I am hopeful that the practical value of personal contact with the work performed by the factory inspectors of Great Britain will more than justify the expense incurred.

I wish to direct attention to the opinion of Chief Inspector Walling, that the increasing number of reports of accidents received by the bureau does not argue an increase in the number actually occurring. I agree with him. It is rather the result of our campaign of education. We are now reaping the harvest of what was sown by my predecessor, P. Tecumseh Sherman. It is of course true that we have kept at the manufacturers and their employees, as well as at our inspectors, and from day to day the record of the toll of industry, in the form of physical injury to persons, keeps rolling in.

These words are not penned with the idea of minimizing the seriousness of the facts recorded, but rather to allay fear or alarm that conditions are growing worse. They are not. Accidents have frequently occurred since the factory system of production came into existence, and they will continue to happen. They are not all preventable. Our business is to separate the preventable from the unavoidable, and by the application of proper means eliminate or reduce to an attainable minimum those that are truly avoidable.

An examination of the British reports shows that the total number of recorded accidents happening in establishments subject to the factory law, during the five years beginning 1905 were as follows:

1905 . . . . .	100,609
1906 . . . . .	111,904
1907 . . . . .	124,325
1908 . . . . .	122,154
1909 . . . . .	117,500

It is generally conceded that under the English government laws are enforced, and there can be no doubt that safety of workmen is commanding the earnest attention of British inspectors; yet it appears that from 1905 to 1907 there was an increase in the number of accidents reported to them nearly equal to the total number recorded by us in 1910. I am confident, however, that no one conversant with the facts would say that accidents are on the increase in England. This is another illustration of what we have said, namely, that a large percentage of accidents are unavoidable.

Without wishing to anticipate the conclusions of the Commission on Employers' Liability, I wish to record my judgment that, in view of the adoption of the amendments to the employers' liability law and the establishment by law of the principle of compulsory compensation of workmen for personal injuries through accidents, the state should assume the duty and obligation to inspect and enforce every reasonable regulation for the safety of such workmen.

#### BUREAU OF LABOR STATISTICS.

From the administrative point of view the notable event of the past year in connection with this bureau was the provision made for an enlargement of its work by chapter 155 of the Laws of 1910, and by an increase in the annual appropriation for the Department of \$6,000 for this particular work.

This new work, for which the new provisions of law and increased resources became available on October 1, 1910, and which was inaugurated on that date, is in the field of accident statistics. In part this is an old field, since preparation of statistics of accidents in factories, mines, quarries and tunnel construction work, as reported through the Bureau of Factory Inspection, has for some time constituted a portion of the work of the bureau. But a new part of the field is now to be covered, namely, that portion represented by the building and engineering industries. As a matter of fact, this field has always been well within the jurisdiction of the bureau under its general authority to secure statistics concerning "all departments of labor in the state." But established lines of work in other directions have so fully occupied the bureau as to preclude until now such an extension of the accident work to those industries. So that it is primarily the additional appropriation, made with this particular work in view, which makes such extension possible. At the same time chapter 155 by laying upon employers in building and engineering work the specific duty of reporting accidents to the Department, in the same manner as manufacturers, mining firms and tunnel constructors have previously been required to do, manifestly puts the bureau in a much more advantageous position for the work.

In this connection it ought to be noted that the legislation which has made this movement possible was the direct outcome of recommendations, made upon the suggestion of this Department, of the Special Commission on Employers' Liability which reported last March.

In connection with accidents in the building and engineering industries the entire work, both of collecting reports and preparing tabulations and summaries, will be done by the Bureau of Labor Statistics. In addition to this extension of accident work, it is planned also to elaborate the statistics of all accidents reported to the Department, so far as practicable, especially in the direction of securing as comprehensive returns as possible concerning duration of disability and wage loss. These would seem to be the most important items, in view of the voluntary and compulsory workmen's compensation acts passed last winter in this state, and in view of what is now a fairly definite movement toward compensation for accidents in the country generally, upon which statistical evidence needs now to be accumulated, in addition to the sort of information heretofore covered in connection with the general problem of industrial accidents. The importance of securing statistics of accidents in the great building industry of this state scarcely needs comment. According to German accident statistics, for example, this industry has a higher accident rate than most manufacturing industries and nearly as high as mining; and while the employers' liability laws have always applied to it, and the new compensation act takes due account of it, the fundamental problem of prevention, for which especially reports of accidents and accurate statistics are almost indispensable, has been much less vigorously attacked than in manufacturing where factory laws and inspection have long dealt with it.

In a word, then, it is hoped to make a distinct forward movement in the work in accident statistics as the result of last winter's legislation. The increased appropriation above referred to provides for three additional employees in the bureau for this purpose. This makes it possible to arrange practically a distinct division of the bureau for this line of work with a senior statistician, a clerk and a stenographer permanently assigned thereto,

In this connection it may be remarked that the increase in the force of this bureau has had the effect of aggravating the overcrowded condition of the Albany office of the bureau noted in last year's report. It has been necessary to crowd three more employees into the same quarters which were reported too crowded a year ago, for the most effective work. So that, while due acknowledgment is made of relief afforded to the best of his ability by the Superintendent of Buildings in respect of artificial lighting, the problems of sufficient room and ventilation have really been aggravated.

#### BUREAU OF MEDIATION AND ARBITRATION.

The general report of this bureau is contained in Appendix III. This report follows the general plan of the reports of former years.

In a brief analysis of the disagreements between capital and labor which came under the notice of the bureau, the chief mediator draws attention to the fact that New York City furnishes the bulk of disputes. This is not surprising when the tremendous and diverse business activities of that city, with its cosmopolitan population, are taken into consideration. The intensity of life under the conditions which prevail there, makes for aggressiveness both on the part of employers and employees. Then again, it may be said that the submersion of the individual in the crowd eliminates that personal element which has always been a potent factor in the maintenance of pleasant relations between employer and employee.

During the year this bureau performed a valuable public service when by reason of an official inquiry into the causes of a very serious strike, it succeeded in bringing the parties together, and an amicable adjustment was the sequel. Since the public investigation of the strike in the plants of the International Paper Company, I have received more than one request for similar action, but have declined to exercise such power. The reason for declining to do so lies in the conception I have of the intent of the Legislature when it conferred upon the Commissioner of Labor the power referred to. I believe that it intended that such power should be exercised only when the public was involved or likely



to be involved through the dispute. Whenever the employees of a public service corporation engage in a strike or are locked out, a public inquiry should be undertaken forthwith so that the responsibility for the conditions created may be definitely known. This course should also be followed when the state is called upon to furnish its military force to perform police duty.

This report marks the end of the active service of Chief Mediator John Lundrigan. He leaves to enter private service. The bureau loses a competent head and the state a faithful servant. He was instrumental in raising the bureau to a position of influence and dignity, enjoying in an unusual degree the confidence of labor and capital.

The new Chief Mediator, Mr. William C. Rogers, comes to the performance of his duty well equipped by education, temperament and training. Although without experience in the particular field of labor and its relations with capital, he will no doubt render very satisfactory service.

#### BUREAU OF MERCANTILE INSPECTION.

The report of the mercantile inspector, with a summary of the work of the bureau, is contained in Appendix IV.

More than two years have elapsed since this bureau was established. Results accomplished have, I believe, fully justified its creation. It cannot cover its field until more adequate facilities are afforded. The staff of inspectors available for active field work is limited by law to ten. This is further limited to eight by the amount of money appropriated for its use. Before the state can fully realize upon its investment in connection with this work, it will be necessary to extend operations so as to more completely supervise conditions in mercantile establishments. This should be done without unduly interfering with the conduct of business. Haphazard legislation should be avoided. This can best be accomplished by a careful study of conditions with a view to the protection of workers in a reasonable and practicable way. Employers should be consulted and won over to needed reforms. That this can be done is evidenced by the fact that last winter the leading association of dry goods merchants in the state joined the Commissioner of Labor in urging the amendment of the law re-

lating to hours of labor of children and females under twenty-one years of age. This was accomplished by conference and compromise, and I am confident that further progress may be secured by following the same course.

#### INSPECTION.

It is unnecessary to repeat what was written last year concerning the size of the problem committed to this bureau.

The record of inspections and observations is as follows: Buffalo, 1,653; Rochester, 647; Boroughs of Greater New York: Manhattan, 5,258; Brooklyn, 1,436; Bronx, 572; Queens, 113; Richmond, 8. These figures show a decrease from the record of last year. This should not be regarded as evidence that the inspectors were less active, for there are other features of their work which show up in their favor as an offset to the falling-off in inspections. Notable among these is the record of punitive actions, 455 being instituted in 1910 against 376 in 1909. Prosecutions are time-consuming incidents. An average of six hours was spent on each case handled during the year, or more than 390 days of eight hours. Other indispensable and unavoidable incidents are accountable for much time which had to be taken from the regular work of the inspectors. On the whole, the record is a satisfactory one and represents a good deal of real hard work creditably done.

#### CHILD LABOR.

The employment of children in gainful occupations is mainly responsible for the establishment of agencies to enforce all labor laws affecting factory and mercantile establishments; hence it is but natural that in discussing our work we should give prominence to the subject.

By reason of our inability to inspect in one year all the places in first-class cities which come under the law, we do not pretend that the figures we give represent all the children who work in the mercantile establishments in the cities affected. Nevertheless we think that the record is an indicator of the general situation in respect of child labor. Last year the percentage of illegal child labor in this group for the three cities was 51.4. This year it is

49.1. The change is more noticeable if we take the separate divisions of the field, as follows:

	1909.	1910.
Buffalo . . . . .	49.4	38.4
Rochester . . . . .	35.1	71.6
New York City:		
Manhattan . . . . .	42.9	41.9
Brooklyn . . . . .	74.1	55.5
Bronx . . . . .	86.4	68.0

In Queens and Richmond every child found at work was employed in violation of law.

The reason for the heavy increase in the record of illegal child labor in Rochester is that a large number of border line cases of child employment were included, namely, children who were engaged in delivering newspapers to regular subscribers. Newspaper publishers had assumed that the children so employed were virtually newsboys and therefore not subject to the restrictions of the Mercantile Law. The matter was taken up and eventually adjusted. The contention of the Department was that the papers delivered were merchandise, and that the children were "employed \* \* \* in the distribution \* \* \* of merchandise."

The improvement in child labor conditions is very slight, yet we must not be disheartened. It will take many years, evidently, to educate merchants to an appreciation of the importance of the subject. During the process we must cultivate patience and perseverance. Every inspector must be patient in dealing with employers and with parents and children. They have been neglected and they are just now awakening to a new order of things; hence our obligation to unremitting effort to impress the need of law-observance upon all concerned. Our motto shall be: The abolition of illegal child labor in all business in our state.

The mercantile inspector directs attention to certain employers who wilfully seek to defeat the law. With that class we have no patience, nor do we intend to let them alone. Rigid enforcement of the penalties of law-breaking will continue to be the rule in all such cases.

Mr. Gernon also calls to our attention the need of strengthening the law in relation to employment in places of amusement. This should be done.

## HOURS OF LABOR.

In discussing this question, the mercantile inspector emphasizes what we said in our last report regarding the difficulty of enforcing the restrictions relating to hours of labor. He states that while the amendment which became effective on October 1st of this year has resulted in some improvement, it still leaves a loophole of escape to the unscrupulous employer. He points out that a closer margin or period within which ten hours' work may be performed on each of the first five days in the week, would enable our inspectors the more readily to detect violations. This suggestion is worthy of serious consideration. I also approve the recommendation that a provision be inserted in the law, requiring employers to post conspicuously in their establishments a notice containing the schedule of hours for children and females under twenty-one.

## PROSECUTIONS.

At the beginning of the fiscal year there were pending in the courts 66 cases which had to be brought to final issue. The summary table relating to this subject shows the result. During the twelve months included in this report, it appears that it was necessary to undertake the prosecution of 455 new cases. This is 79 more than were prosecuted in 1909. Of this number, only 36 were unfinished at the close of the year. I regard this as an exceptional record. It brings the total of cases disposed of up to 485, or an average of ten cases a week, excluding the vacation period.

As might be expected, the employment of children constituted the cause of action in a very large majority of the cases prosecuted by this bureau. Out of the total of 485 completed cases, the number of child labor violations was 464. Of this number, 398 were convicted, either after trial or upon a plea of guilty. Fines were imposed in 133 cases — just one-third — while sentence was suspended in the remaining 265. The aggregate of fines in these cases was \$3,060.

Fourteen cases involving violations of the law relating to hours of labor of females were taken into court, two of which were pending at the close of the year. Of the twelve that came to final issue, nine resulted in conviction, a fine of twenty dollars being imposed in each of five cases and a suspension of sentence in the other four.

It is needless to repeat what has been so often said regarding the doubtful value of a suspended sentence. In a majority of such instances of judicial clemency, the corrective force of the prosecution is lost; moreover, the effect upon the officer whose duty it is to enforce the law is depressing. Instances have come to my notice where the magistrate has publicly reproved the officer for his zeal in the performance of his duty. I am glad to say, however, that such instances are becoming more rare. Public opinion in regard to the enforcement of the Labor Law is making itself felt, and our task becomes easier in ratio to the growth of this demand for its observance and enforcement.

#### SANITARY REQUIREMENTS AND CONVENIENCES.

It is a source of gratification that we are able to say that conditions in respect of wash-rooms and water-closets are much improved since the duty of enforcing the law has devolved upon this Department. It was found necessary to issue only a little in excess of half the number of orders relating to these matters that were issued in 1909. These orders are recited in detail by the mercantile inspector. Section 168 is defective, as will be noted from the remarks of Mr. Gernon. It should be amended so as to enable us to insist upon proper accommodations for all persons who work in mercantile establishments.

The provision in the law regarding the furnishing and use of seats for female employees is far from satisfactory. Portable chairs or stools are ill adapted to meet the need which prompted this enactment. Permanent fixtures in the form of collapsible or folding chairs or stools should be used; in fact, the law should be amended so as to require the installation of such means of rest.

#### VENTILATION.

The mercantile law attempts to regulate ventilation only in the basement of a mercantile establishment. It should be amended to require that all parts of such establishments and other premises subject to its provisions, be properly and sufficiently ventilated. Such provision should contain a definite standard such as we hope to see enacted in the factory law.

The use of a basement in a mercantile establishment as a place of employment for women or children is made to depend theoretically upon the question whether such basement is properly ventilated. We have failed, however, to enforce this rule in a case brought by the Department in Brooklyn to punish the owner for the use of a basement without a permit, the permit having been denied because the basement in question was not properly ventilated. The magistrate dismissed the case upon the ground that the statute which made the right to employ a woman in a basement dependent upon the permission of the Commissioner of Labor was unconstitutional.

#### SAFETY.

No duty is laid by law upon the Department of Labor with respect to the safety of persons employed in mercantile establishments. Nevertheless, I invite serious attention to that part of the report of the mercantile inspector under the caption "Escape in Case of Fire."

We have no desire to cause undue alarm nor to pander to senseless sensationalism; but if we were blind to the possibility of a catastrophe, we would richly merit censure. I think the note of warning sounded so clearly by Mr. Gernon should be carefully considered and adequate provision made for regulation and enforcement. During certain periods, the business instincts of our merchants seem to absorb every other consideration, but the personal safety of employees and patrons should at all times be paramount. The fact that in recent years no serious fire has broken out in any large mercantile establishment is no assurance that such a thing will not happen. Ample provision for safety in case of such an occurrence would be far better than sweeping measures thereafter, accelerated by remorse over things neglected.

#### BUREAU OF INDUSTRIES AND IMMIGRATION.

The creation of the Bureau of Industries and Immigration followed quite naturally the presentation of the case for the aliens by the commission appointed in 1908 to investigate the problem of immigration as it affects the interests of the State of New York.

The report mentioned was presented to the Governor rather late in the legislative session of 1909. A bill was introduced creating a new department of government in accordance with the recommendations of the commission, to have charge of the administration of certain proposed legislation for the protection and welfare of aliens. The bill failed of passage.

In December, 1909, the Commissioner of Labor was invited to attend a conference, held in the executive chamber, between Governor Hugnes and several persons who were interested in having the recommendations of the Commission on Immigration favorably acted upon during the legislative session of 1910. It was quite evident to those at the conference that the Governor was in entire sympathy with the constructive recommendations of the commission, but he made it perfectly clear that he was opposed to the creation of a separate department of government to deal with the problem, and intimated without fully committing himself, that he would be disposed to regard favorably any legislation to accomplish the end in view, if that could be done by increasing the powers of one or more existing departments without involving immediately any considerable increase in the expenses of such departments.

After several conferences with the members of the commission, I agreed that certain features of the reforms recommended fell naturally within the purview and scope of the Department of Labor, and by collaboration with them a bill was prepared establishing in this Department a bureau of industries and immigration. I attended hearings before committees of the Senate and Assembly, and urged the passage of the bill. The effort was successful and the measure received executive approval.

A fairly liberal appropriation for the new bureau was provided in the appropriation bill, but owing to the condition of the state's finances, Governor Hughes found it absolutely necessary to disapprove all items except those for the salaries of the head of the bureau and for six employees.

This was the situation that confronted the Commissioner of Labor as we approached the end of the last fiscal year. I had to plan for the administration of the new law and the establishment of the bureau without a dollar for any purpose beyond the salaries

of a meager force. This meant that traveling expenses, printing and office expenses, would have to come out of the regular departmental appropriations for those purposes. We did not falter, however, but went ahead, relying upon the incoming legislature and the executive to supply the deficiency which would inevitably arise. It has been my endeavor to keep the expenses of the entire Department down to the lowest possible point consistent with efficient service, and I am hopeful that the deficiency which will have to be met will not be very large.

I consider myself and the state fortunate in that I secured the services of Miss Frances A. Kellor of New York as the chief executive officer of the new bureau. She had served as a member of the State Commission on Immigration and was thoroughly familiar with every phase of the problem committed to the Department.

I am confident that the services which will be rendered by this new branch of our Department will fully justify its creation and the expense involved.

#### CONCLUSION.

I am pleased once again to make reference to the fact that those connected with the Department have rendered faithful service. The results recorded could not have been achieved had it not been for the loyalty of our subordinates. I am also under obligations to Hon. E. R. O'Malley, Attorney-General, for the uniform courtesy accorded to this Department in all matters relating to the legal aspects of our work.

(Signed) JOHN WILLIAMS,  
*Commissioner of Labor.*

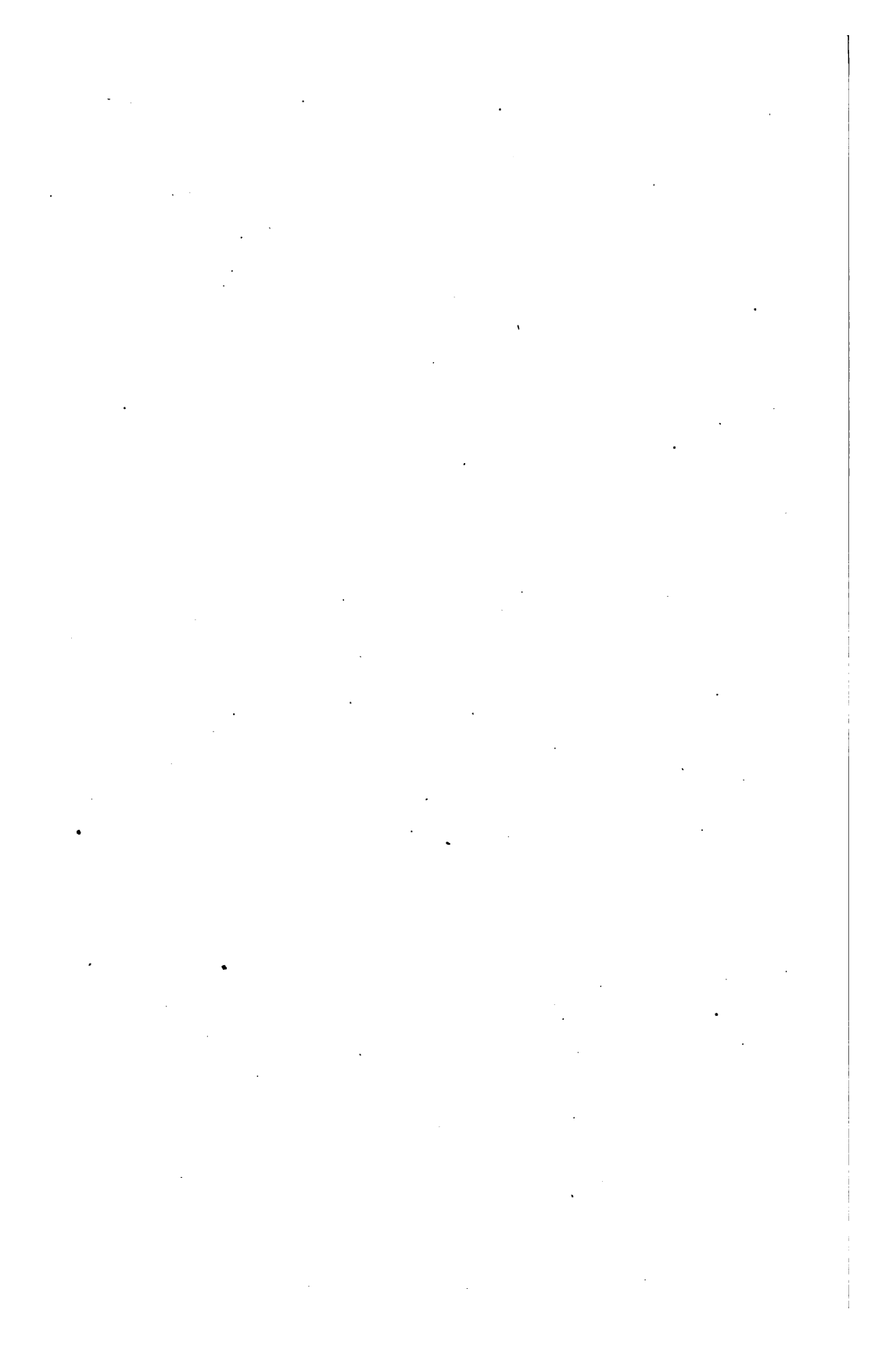




## APPENDIXES.

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- I. Financial Report of the Department.
- II. General Report of Bureau of Factory Inspection.
  - (a) Report of the Factory Inspector.
  - (b) Report of the Medical Inspector of Factories.
  - (c) Report of the Tunnel Inspector.
- III. General Report of Bureau of Mediation and Arbitration.
- IV. General Report of Bureau of Mercantile Inspection.
- V. Index of Labor Legislation in 1910.
- VI. Labor Laws in Force October 1, 1910.
- VII. Opinions of Attorney-General Rendered to the Department During Report Year.



# APPENDIX I.

## FINANCIAL REPORT OF THE DEPARTMENT.

(a) APPROPRIATIONS AND EXPENDITURES FOR THE FISCAL YEAR  
OCTOBER 1, 1909, TO SEPTEMBER 30, 1910.

### APPROPRIATIONS.

	Balance Oct. 1, 1909.	L. 1909, chs. 432, 433 ; L. 1910 ch. 513.	Total	
<b>Salaries :</b>				
Commissioner, deputies and heads of bureaus.....		\$15,700 00	\$15,700 00	
Other permanent employees. *		131,800 00	131,800 00	
Temporary employees.....	\$863 34		863 34	
			<hr/>	\$148,363 34
<b>Traveling Expenses :</b>				
Commissioner .....	437 18	1,500 00	\$1,937 18	
Other officers and employees.	428 44	36,000 00	36,428 44	
			<hr/>	38,365 62
Printing (including Bulletins) ..	36 51	7,000 00	\$7,036 51	
Material for Bulletins and Reports.....	1,000 00	1,000 00	2,000 00	
Miscellaneous Expenses.....	501 53	11,000 00	11,501 53	
	<hr/>	<hr/>	<hr/>	20,538 04
	\$3,267 00	\$204,000 00		<hr/>
				<hr/>
				\$207,267 00

### DISBURSEMENTS.

<b>Salaries :</b>				
Commissioner, deputies and heads of bureaus.....		\$15,700 00		
Other permanent employees.....		127,665 23		
Temporary employees .....		590 84		
		<hr/>		\$143,956 07
<b>Traveling Expenses :</b>				
Commissioner .....		\$1,705 44		
Other officers and employees.....		34,376 71		
		<hr/>		36,082 15
<b>Printing, etc. :</b>				
Bulletins (3) .....		\$1,993 19		
Material for Bulletins and reports.....		1,183 96		
Other printing .....		5,013 09		
		<hr/>		8,190 24
<b>Office and General Expenses :</b>				
Rent of sub-office in New York City.....		\$2,500 00		
Postage and transportation (postage, \$3,600; express, \$1,030.87; local delivery of annual reports for 1908, \$360.10; boxes and cases for 1908 reports, \$69.69; post-office box rent, \$16; freight and cartage, \$9.14).		5,085 80		
Telephone (\$595.95), telegraph and messenger service (\$208.11) .....		804 06		

\* The unused balance of \$829.79 for this item (see p. 48 of last year's report) was reappropriated by L. 1910, ch. 513, for miscellaneous expenses (\$500) and temporary employees (\$329.79) and is here credited to the latter items accordingly.

Stationery and typewriter supplies (stationery, \$368.01; index cards and guides, \$284.51; window envelopes, \$45.12; typewriter supplies, \$37.95; book register, \$5.50).....	\$739 09	
Books, subscriptions and clippings (newspaper clippings, \$180; copies of court testimony, etc., \$153.70; subscriptions, \$117.75; city directories, \$68; law books, \$68; legislative index, \$50; books for library, \$39.68; maps, \$8).....	685 13	
Office furniture and equipment (ventilating system, \$196.32; office furniture, \$121.40; typewriters and repairs, \$119.48; files and cabinets, \$85.25).....	522 45	
Other (drinking water and ice, \$127.39; supplies for medical inspector, \$86.31; rubber stamps, \$32.71; towels, \$30.25; revision of manuscript, \$11.60; electrical supplies, \$4.20; cutlery, \$3.98; photographic supplies, \$1.59; sundries, \$40.61).....	338 64	
		10,675 17
		<u>\$198,903 63</u>
BALANCES		
Salaries :		
Permanent employees . . . . .	\$4,134 77	
Temporary employees . . . . .	272 50	
Traveling Expenses :		
Commissioner of Labor . . . . .	231 74	
Other officers and employees.....	2,051 73	
Printing :		
Material for Bulletins and Reports.....	816 04	
General printing . . . . .	30 23	
Office and General Expenses.....	826 36	
		8,363 37
		<u>\$207,267 00</u>

(b) INDIVIDUAL SALARY AND EXPENSE ACCOUNT FOR 1910, SHOWING ALSO ORGANIZATION AND PERSONNEL OF DEPARTMENT FOR BOTH 1910 AND 1911 UP TO DATE OF THIS REPORT.‡

POSITIONS AND OCCUPANTS.	Date of appointment.	Salary of position.	Amount received in 1910.	Traveling expenses in 1910.
Commissioner of Labor:				
John Williams.....	Oct. 4, 1907	\$5,000 00	\$5,000 00	\$1,705 44
Counsel:*				
F. H. Cunningham.....	Jan. 1, 1908	2,400 00	2,400 00	187 80
Special Agents — Legal (2):				
F. V. R. Turk <i>a</i> .....	Oct. 1, 1907	1,500 00	875 00	27 56
Charles Whelan.....	Oct. 1, 1908	1,400 00	1,400 00	219 22
Special Agent:				
<i>L. A. Havens</i> <i>b</i> .....	Oct. 1, 1910	1,500 00	.....	.....
Confidential Agent:*				
H. B. Whitney.....	Oct. 1, 1909	1,200 00	1,200 00	870 59
Auditing Clerk:				
J. S. Lyons.....	Jan. 27, 1899	1,800 00	1,800 00	.....
Confidential Clerk:*				
J. R. Willis <i>c</i> .....	Jan. 8, 1908	1,200 00	950 00	.....
J. H. Williams.....	Dec. 1, 1910	1,000 00 <i>d</i>	.....	.....

‡Appointees or positions new since Oct. 1, 1910, are indicated by italics; changes in salary since that date are given in footnotes.

*a* Resigned May 1, 1910.

*b* Transferred from deputy factory inspector (see below).

*c* Appointed deputy factory inspector July 16, 1910 (see below).

*d* Reduced from \$1,200 Jan. 1, 1911.

\* Exempt.

# REPORT OF THE COMMISSIONER OF LABOR, 1910. 43

POSITIONS AND OCCUPANTS.	Date of appointment.	Salary of position.	Amount received in 1910.	Traveling expenses in 1910.
<b>Stenographer:</b>				
Mary L. Stiegelmaier.....	July 1, 1905	\$1,500 00	\$1,500 00	.....
<b>Page:</b>				
George E. Robertson e.....	Aug. 3, 1908	360 00	195 00	.....
Lloyd E. Fuller f.....	May 8, 1910	360 00	23 23	.....
J. J. Shelley.....	June 1, 1910	360 00	120 00	.....
			<u>\$15,463 23</u>	<u>\$3,010 61</u>

## BUREAU OF FACTORY INSPECTION.

<b>Factory Inspector:**</b>				
W. W. Walling.....	Oct. 4, 1907	\$3,000 00	\$3,000 00	\$1,353 57
<b>Assistant Factory Inspectors(2):</b>				
T. A. Keith*.....	May 27, 1903	2,400 00	2,400 00	213 69
H. L. Schnur.....	July 22, 1907	2,400 00	2,400 00	498 43
<b>Superintendent of Licenses:</b>				
Daniel O'Leary.....	July 1, 1899	2,400 00	2,400 00	189 57
<b>Medical Inspector:</b>				
C. T. Graham-Rogers.....	Nov. 1, 1907	2,400 00	2,400 00	549 43
<b>Tunnel Inspector:</b>				
Gustav Werner.....	Oct. 1, 1907	1,500 00	1,500 00	816 06
<b>Clerks (6):</b>				
Jessie M. Sweeney.....	Jan. 9, 1894	1,500 00	1,500 00	.....
Electa R. Lockwood.....	July 1, 1890	1,200 00	1,200 00	.....
A. J. O'Neill.....	April 3, 1894	1,200 00	1,200 00	.....
G. E. Dayton.....	April 1, 1900	1,000 00	1,000 00	.....
Jessie M. Bolin g.....	Feb. 1, 1902	900 00	300 00	.....
Jennie M. Wickham.....	Oct. 1, 1907	900 00h	885 00	.....
Estelle Jarvis.....	Nov. 1, 1909	720 00i	600 00	.....
<b>Stenographers (3):</b>				
Mary H. Lockwood.....	Aug. 19, 1907	1,000 00	1,000 00	.....
Winifred E. Lockrow.....	Mar. 10, 1902	900 00	900 00	.....
Jane A. Dillon.....	Oct. 16, 1910	600 00j	.....	.....
<b>Deputy Factory Inspectors (52):</b>				
M. J. Flanagan.....	Aug. 17, 1897	1,500 00	1,500 00	259 02
D. J. Hanlon.....	April 9, 1896	1,500 00	1,500 00	311 41
L. A. Havens.....	Aug. 1, 1899	1,500 00	1,500 00	628 70
J. S. Altschul.....	Nov. 26, 1906	1,200 00k	1,183 33	327 86
L. S. Arnold l.....	Aug. 1, 1899	1,200 00	912 90	462 14
C. B. Ash.....	May 16, 1896	1,200 00m	1,200 00	399 54
Anna C. Bannon.....	Aug. 1, 1899	1,200 00	1,200 00	258 74
Maurice Barshell.....	July 1, 1906	1,200 00	1,200 00	230 89
Hiram Blanchard.....	June 15, 1887	1,200 00	1,200 00	.....
S. N. Brenner.....	July 1, 1906	1,200 00	1,200 00	343 88
G. S. Cangialosi.....	July 1, 1906	1,200 00	1,200 00	333 28
G. C. Daniels.....	Jan. 15, 1908	1,200 00	1,200 00	238 11
James Davie.....	May 1, 1895	1,200 00	1,200 00	404 66
May G. Davies.....	Jan. 14, 1907	1,200 00	1,200 00	234 40
W. H. Donahue.....	July 1, 1906	1,200 00	1,200 00	404 00
Margaret Finn.....	July 1, 1890	1,200 00	1,200 00	219 82

e Resigned April 15, 1910.

f Resigned May 31, 1910.

g Appointed deputy factory inspector Feb. 1, 1910 (see below).

h Increased from \$720 Nov. 1, 1909.

i Increased from \$600 May 1, 1910; increased to \$900 Nov. 1, 1910.

j Transferred from another state department at \$600; appropriation for position \$720.

k Increased from \$1,000 Nov. 1, 1909.

l Died July 4, 1910.

m Increased to \$1,500 Oct. 16, 1910.

\* Exempt.

† First deputy commissioner of labor.

POSITIONS AND OCCUPANTS.  
Deputy Factory Inspectors (52)

—(continued):

	Date of appointment.	Salary of position.	Amount received in 1910.	Traveling expenses in 1910.
W. S. Finney.....	Oct. 1, 1907	\$1,200 00	\$1,200 00	\$389 39
William Ford <sup>n</sup> .....	Aug. 1, 1899	1,200 00	823 33	129 03
Lily F. Foster.....	Sept. 3, 1897	1,200 00	1,200 00	204 55
C. M. Gilmore.....	April 1, 1903	1,200 00	1,200 00	565 06
Rebecca B. Gourlie.....	Sept. 16, 1896	1,200 00	1,200 00	204 16
W. H. Guyett.....	July 1, 1906	1,200 00	1,200 00	452 13
C. L. Halberstadt, Jr. <sup>e</sup> .....	Aug. 17, 1897	1,200 00	400 00	123 29
G. I. Harmon.....	April 9, 1896	1,200 00	1,200 00	553 57
Nathan Herzstein.....	Mar. 4, 1907	1,200 00	1,200 00	288 41
G. L. Horn.....	June 1, 1900	1,200 00	1,200 00	245 47
J. W. Ireland.....	Feb. 1, 1897	1,200 00	1,200 00	677 43
Kate L. Kane.....	July 11, 1895	1,200 00	1,200 00	567 42
C. M. Lessels.....	Aug. 1, 1899	1,200 00	1,200 00	574 89
W. G. Lowmsbery.....	Aug. 1, 1899	1,200 00	1,200 00	497 32
C. F. Miller, Jr.....	Oct. 1, 1906	1,200 00	1,200 00	252 40
Ella Nagle.....	Mar. 23, 1893	1,200 00	1,200 00	233 05
F. S. Nash.....	Feb. 1, 1895	1,200 00 <sup>p</sup>	1,200 00	999 38
W. J. Neely.....	Aug. 1, 1896	1,200 00	1,200 00	242 66
Joseph O'Rourke.....	May 1, 1895	1,200 00	1,200 00	799 89
Silas Owen.....	Aug. 1, 1899	1,200 00	1,000 00**	558 74
William Pearson.....	Sept. 23, 1905	1,200 00	1,200 00	290 09
Josie A. Reilly.....	Oct. 1, 1896	1,200 00	1,200 00	624 94
W. M. Rich.....	July 1, 1906	1,200 00	1,200 00	327 75
Abraham Sirota.....	July 1, 1906	1,200 00	1,200 00	267 06
J. B. Sliter.....	Aug. 1, 1899	1,200 00	1,200 00	690 29
D. C. Sullivan.....	Oct. 1, 1892	1,200 00	1,200 00	401 65
W. E. Tibbs.....	June 1, 1896	1,200 00	1,200 00	769 33
J. H. Vogt <sup>q</sup> .....	Oct. 1, 1908	1,200 00 <sup>q</sup>	933 31	234 77
E. M. Wilber.....	Aug. 15, 1907	1,200 00	1,200 00	442 91
S. T. Wilson.....	July 15, 1907	1,200 00	1,200 00	426 55
D. S. Yard.....	Aug. 1, 1899	1,200 00	1,200 00	632 75
J. W. Andrews <sup>r</sup> .....	May 1, 1910	1,000 00	333 33	97 54
Charles Basner.....	Nov. 1, 1910	1,000 00	.....	.....
Jessie M. Bolin <sup>s</sup> .....	Feb. 1, 1910	1,000 00	666 67	.....
C. G. Branch.....	Aug. 1, 1910	1,000 00	166 67	28 90
H. P. Brown.....	Nov. 16, 1910	1,000 00	.....	.....
A. J. MacKenzie <sup>t</sup> .....	Aug. 1, 1910	1,000 00 <sup>u</sup>	166 67	33 16
G. F. O'Neill <sup>v</sup> .....	Nov. 12, 1906	1,000 00	473 10	167 82
Nathan Schwartz <sup>w</sup> .....	May 21, 1908	1,000 00	166 67	53 08
G. C. Ward.....	April 11, 1910	1,000 00	472 22	102 97
J. R. Willis <sup>x</sup> .....	July 16, 1910	1,000 00	208 33	225 09
Florence C. Wilkinson.....	Oct. 1, 1907	1,000 00 <sup>u</sup>	1,000 00	305 47
T. F. Woods.....	Oct. 10, 1910	1,000 00	.....	.....
			<u>\$81,691 53</u>	<u>\$23,357 46</u>

<sup>n</sup> Died June 7, 1910.

<sup>o</sup> Resigned Feb. 1, 1910.

<sup>p</sup> Increased to \$1,500 Oct. 16, 1910.

<sup>q</sup> Transferred from deputy mercantile inspector Dec. 1, 1909 (see below); salary increased to \$1,200 April 1, 1910.

<sup>r</sup> Resigned Sept. 1, 1910.

<sup>s</sup> See above under "clerks."

<sup>t</sup> Transferred from deputy mercantile inspector Aug. 1, 1910 (see below).

<sup>u</sup> Increased to \$1,200 Oct. 16, 1910.

<sup>v</sup> Resigned March 21, 1910.

<sup>w</sup> Transferred to deputy mercantile inspector Dec. 1, 1909 (see below).

<sup>x</sup> See above under "confidential clerk."

\*\* Suspended two months without pay.

# REPORT OF THE COMMISSIONER OF LABOR, 1910. 45

POSITIONS AND OCCUPANTS.	Date of appointment.	Salary of position.	Amount received in 1910.	Traveling expenses in 1910.
<b>BUREAU OF LABOR STATISTICS.</b>				
Chief Statistician:				
L. W. Hatch.....	Nov. 16, 1907	\$2,700 00s	\$2,700 00	\$105 70
Senior Statisticians (3):				
G. A. Stevens.....	June 4, 1888	2,400 00	2,400 00	231 66
J. H. Middleton <sup>r</sup> .....	Jan. 11, 1904	1,800 00	1,468 55	.....
C. H. Sears.....	Oct. 1, 1910	2,000 00t	.....	.....
L. D. Jones.....	Nov. 16, 1910	1,800 00w	.....	.....
Expert:				
E. B. Patton.....	Jan. 9, 1911	1,800 00	.....	.....
E. S. Whitin <sup>u</sup> .....	Dec. 8, 1908	1,800 00	1,800 00	852 57
J. A. Fitch <sup>v</sup> .....	May 1, 1909	1,500 00	1,125 00	90 04
Junior Statisticians (4):				
D. J. Naughtin.....	Sept. 23, 1897	1,500 00	1,500 00	155 74
D. A. Hausmann <sup>c</sup> .....	Dec. 28, 1908	1,200 00	1,200 00	272 09
R. R. Sherwood.....	Oct. 1, 1910	1,200 00	.....	.....
L. D. Jones.....	Aug. 1, 1909	1,500 00b	1,250 00	249 36
Special Agents (5):				
T. J. Hammill.....	Mar. 1, 1898	1,440 00x	1,440 00	221 16
W. E. Pettit.....	June 7, 1898	1,440 00x	1,440 00	368 74
J. F. Bolin.....	Oct. 1, 1907	1,200 00y	1,200 00	204 39
P. J. Honan.....	Oct. 1, 1907	1,200 00y	1,200 00	225 62
D. W. O'Connor.....	Mar. 1, 1898	1,300 00	1,300 00	236 50
Librarian:				
P. J. B. Haegy.....	Feb. 1, 1907	1,000 00	1,000 00	.....
Clerks (3):				
Kate Shaffer.....	Sept. 14, 1886	1,500 00	1,500 00	.....
C. E. Force.....	Oct. 21, 1908	900 00y	750 00	31 76
J. B. Anglum <sup>z</sup> .....	Nov. 16, 1910	600 00	.....	.....
Stenographers (2):				
Caroline E. Rosenbloom....	Oct. 1, 1910	900 00	.....	.....
Ida B. Frank.....	Feb. 1, 1910	720 00	480 00	.....
Macie E. Kemp <sup>a</sup> .....	Oct. 1, 1907	720 00	195 48	.....
			<u>\$23,949 03</u>	<u>\$3,245 27</u>

## BUREAU OF MEDIATION AND ARBITRATION.

Chief Mediator:*†				
John Lundrigan <sup>h</sup> .....	Mar. 21, 1901	\$3,000 00	\$3,000 00	\$1,727 27
W. C. Rogers.....	Oct. 16, 1910	3,000 00	.....	.....
Mediator:*				
M. J. Reagan.....	July 10, 1905	2,500 00	2,500 00	446 40
Assistant Mediators (2):*				
P. J. Downey.....	Oct. 1, 1907	1,500 00	1,500 00	386 69
James McManus.....	Oct. 1, 1907	1,500 00	1,500 00	399 90

- <sup>r</sup> Resigned July 25, 1910.  
<sup>s</sup> Increased to \$3,000 Oct. 1, 1910.  
<sup>t</sup> Increased to \$2,000 Oct. 1, 1910.  
<sup>u</sup> Resigned Dec. 15, 1910.  
<sup>v</sup> Resigned Aug. 1, 1910.  
<sup>w</sup> \$1,500 until Feb. 1, 1911, in view of prior promotion on Aug. 1, 1910 (see under "junior statisticians").  
<sup>x</sup> Increased to \$1,500 Oct. 1, 1910.  
<sup>y</sup> Increased to \$1,300 Oct. 1, 1910.  
<sup>z</sup> Transferred from another state department at \$600; appropriation for position \$720.  
<sup>a</sup> Transferred to another state department Jan. 8, 1910.  
<sup>b</sup> Increased from \$1,200 Aug. 1, 1910.  
<sup>c</sup> Resigned Dec. 31, 1910.  
<sup>d</sup> Increased from \$720 Aug. 1, 1910; appropriation for position \$1,200.  
<sup>e</sup> Resigned Oct. 15, 1910.  
<sup>f</sup> Second deputy commissioner of labor.  
<sup>g</sup> Exempt.



POSITIONS AND OCCUPANTS.	Date of appointment.	Salary of position.	Amount received in 1910.	Traveling expenses in 1910.
Special Agent:				
J. J. Bealin.....	June 26, 1896	\$1,500 00	\$1,500 00	\$252 26
Clerk:				
Mabel L. Crounse.....	Oct. 1, 1906	900 00	900 00	.....
			<u>\$10,900 00</u>	<u>\$3,212 52</u>

## BUREAU OF MERCANTILE INSPECTION.

Mercantile Inspector:*				
J. L. Gernon.....	Oct. 1, 1908	\$2,000 00 <sup>f</sup>	\$2,000 00	\$888 46
Deputy Mercantile Inspectors (8):				
Eunice Burton.....	July 1, 1910	1,000 00	250 00	23 29
Mary L. Carbon.....	Oct. 1, 1908	1,000 00	1,000 00	234 91
E. P. Dunham.....	Nov. 1, 1910	1,000 00	.....	.....
F. L. Fisher.....	Oct. 1, 1908	1,000 00	1,000 00	383 70
J. P. Harsha.....	Oct. 1, 1908	1,000 00	1,000 00	297 36
Mary F. Lyons <sup>j</sup> .....	July 12, 1910	1,000 00	169 35	.....
A. J. MacKenzie <sup>n</sup> .....	Oct. 1, 1908	1,000 00	833 33	294 32
Robert Northrup.....	Oct. 1, 1908	1,000 00	1,000 00	307 73
Nathan Schwartz <sup>k</sup> .....	Dec. 1, 1909	1,000 00	833 33	258 08
Edward Quigley.....	Oct. 1, 1908	1,000 00	1,000 00	267 04
J. H. Vogt <sup>m</sup> .....	Oct. 1, 1908	1,000 00	166 67	60 85
E. H. Williamson <sup>l</sup> .....	Oct. 1, 1908	1,000 00	308 76	161 05
Clerk:				
Annie Schlesinger.....	Oct. 1, 1908	900 00	900 00	.....
Stenographer:				
May L. Honner.....	Oct. 1, 1908	900 00	900 00	.....
			<u>\$11,361 44</u>	<u>\$3,176 79</u>

## BUREAU OF INDUSTRIES AND IMMIGRATION.

Chief Investigator:				
Frances A. Kellor.....	Oct. 1, 1910 <sup>a</sup>	\$2,500 00	.....	.....
Special Investigators (5):				
A. A. Daniele.....	Oct. 10, 1910 <sup>b</sup>	1,200 00	.....	.....
J. S. Henry.....	Oct. 10, 1910 <sup>b</sup>	1,200 00	.....	.....
M. J. Sullivan.....	Oct. 10, 1910 <sup>b</sup>	1,200 00	.....	.....
G. C. Troiano.....	Oct. 26, 1910 <sup>c</sup>	1,200 00	.....	.....
Carola Woerishoffer.....	Dec. 8, 1910 <sup>d</sup>	1,200 00	.....	.....
George Bartasius.....	Dec. 8, 1910 <sup>b</sup>	1,200 00	.....	.....
Alfred Markus.....	Jan. 9, 1911	1,200 00	.....	.....
L. C. Wagner.....	Jan. 9, 1911	1,200 00	.....	.....
I. G. Brine.....	Jan. 16, 1911	1,200 00	.....	.....
Joseph Mayper.....	Jan. 16, 1911	1,200 00	.....	.....
Stenographer:				
Edith I. Davis <sup>e</sup> .....	Dec. 1, 1910	1,200 00	.....	.....

<sup>f</sup> Increased to \$2,500 Oct. 1, 1910.

<sup>j</sup> Resigned Sept. 12, 1910.

<sup>k</sup> Transferred from deputy factory inspector Dec. 1, 1909 (see above).

<sup>l</sup> Suspended Nov. 26, 1909 to Jan. 5, 1910; resigned March 1, 1910.

<sup>m</sup> Transferred to deputy factory inspector, Dec. 1, 1909 (see above).

<sup>n</sup> Transferred to deputy factory inspector, Aug. 1, 1910 (see above).

<sup>a</sup> Appointed provisionally Oct. 1; permanently Dec. 1, 1910.

<sup>b</sup> Provisional appointment which terminated Jan. 7, 1911.

<sup>c</sup> Provisional appointment which terminated Nov. 15, 1910.

<sup>d</sup> Appointed provisionally Dec. 8; permanently, Jan. 9, 1911.

<sup>e</sup> Resigned Jan. 15, 1911.

\* Exempt.

# REPORT OF THE COMMISSIONER OF LABOR, 1910. 47

POSITIONS AND OCCUPANTS.	Date of appointment.	Salary of position.	Amount received in 1910.	Traveling expenses in 1910.
TEMPORARY EMPLOYEES.				
Clerk:				
W. L. Johnson.....			\$156 80	.....
Stenographers:				
Marjorie C. Boff.....			147 10	.....
Justina M. Grogan.....			75 00	.....
Grace P. Manning.....			60 00	.....
Anna M. Sweet.....			91 94	.....
Interpreter:				
A. A. Daniele.....			60 00	\$79 50.
			<hr/> \$590 84	<hr/> \$79 50
			<hr/> <hr/> \$143,956 07	<hr/> <hr/> \$36,082 15

## APPENDIX II.

## GENERAL REPORT OF BUREAU OF FACTORY INSPECTION.

## (A) REPORT OF THE FACTORY INSPECTOR.

HON. JOHN WILLIAMS,

*Commissioner of Labor, Albany, N. Y.*

SIR: The following tables summarize the work of the Bureau of Factory Inspection for the year ended September 30, 1910:

## 1. WORK OF DEPUTY FACTORY INSPECTORS.

	1910.	1909.	1908.	1907.
Regular inspections:				
Factories in separate buildings	12,178	11,571	11,854	12,431
Tenant factories	25,847	24,304	23,480	22,971
Laundries	2,320	2,359	1,945	1,967
Bakeries	4,156	4,853	4,101	3,874
Mines or quarries	84	121	118	173
Tunnel workings	46	13	22	.....
Tenant factory buildings	150	277	125	820
Tenement buildings (licensed)	12,035	10,219	8,751	4,577
Total	56,816	53,717	50,396	46,816
Special inspections (factories, laundries, bakeries)	1,868	1,147	1,427	1,476
Investigations:				
Applications for license	1,835	3,179	3,195	3,740
Complaints	938	870	603	643
Compliances	\$35,460	\$30,640	\$32,448	\$34,863
On special orders	2,967	3,074	3,473	1,412
Total	41,200	37,763	39,719	40,658
Observations—tenement buildings (unlicensed)	2,125	2,135	4,736	5,430
Tunnel workings	75	200	186	.....
Tagging to stop work:				
Goods in tenements (§ 100)	126	104	71	251
Goods in tenant factories (§ 95)	469	399	446	356
Articles in bakeries (§ 114)	191	59	14	26
Unsafe machinery (§ 81)	.....	3	11	.....
Scaffolding (§ 19)	.....	1	3	1
Total	786	566	545	634
Prosecutions begun**	610	511	743	374
Days or parts of days on court work	1,442	1,699	1,796	†

## 2. TENEMENT MANUFACTURES.

STATEMENT OF LICENSES FOR ENTIRE PERIOD OF AMENDED LAW (OCT. 1, 1904–Sept 30, 1910).

	New York City.	Re-mainder of State.	Total
Total applications received	15,183	567	15,750
Total applications granted	13,673	563	14,236
Total applications refused (net)*	170	4	174
Applications canceled	1,320	.....	1,320
Applications pending	20	.....	20
Licenses canceled at request of applicants	801	12	813
Licenses revoked for unlawful conditions	31	.....	31
Total number of licensed premises	12,841	551	13,392

† Not reported.

\* Includes 19,211 first and 13,237 subsequent visits.

† Includes 19,775 first and 10,865 subsequent visits.

§ Includes 21,929 first and 13,531 subsequent visits.

\*\* See detailed table of prosecutions below.

RECORD OF LICENSES FOR 1910.

	New York City.	Re- mainder of State.	Total.	Total, 1909.
Applications pending Oct. 1, 1909.....	12	.....	12	10
Applications received during year.....	1,637	10	1,647	1,816
Total.....	1,649	10	1,659	1,826
On first investigation:				
Applications granted.....	1,452	10	1,462	1,569
Applications refused.....	154	.....	154	222
Applications canceled.....	23	.....	23	23
Applications pending Sept. 30, 1910.....	20	.....	20	12
On reinvestigation of applications previously refused:				
Applications granted.....	119	.....	119	322
Applications refused again.....	38	.....	38	132
Applications canceled.....	43	.....	43	227
Total.....	200	.....	200	681
On reinvestigation of applications previously sus- pended:				
Applications granted.....	.....	.....	.....	169
Applications refused.....	.....	.....	.....	57
Applications canceled.....	.....	.....	.....	523
Total.....	.....	.....	.....	749
Licenses canceled at request of licensee.....	277	.....	277	112
Licenses revoked for unlawful conditions.....	11	.....	11	9
Net increase or decrease in—				
Outstanding licenses.....	+1,283	+10	+1,293	+1,939
Refused applications.....	—3	.....	—3	—270
Canceled applications.....	+66	.....	+66	+773
Outstanding licenses Sept. 30, 1910.....	12,841	551	13,392	12,099

3. CHILDREN FOUND IN FACTORIES.

COUNTY.	UNDER 16 BUT NOT UNDER 14, EMPLOYED —				UNDER 14 YEARS. (Illegally employed.)		Total children under 16.
	LEGALLY.*		ILLEGALLY.†		Boys.	Girls.	
	Boys.	Girls.	Boys.	Girls.			
Albany.....	148	193	.....	9	.....	.....	350
Allegany.....	1	3	.....	.....	.....	.....	4
Broome.....	12	30	1	2	.....	.....	45
Cattaraugus.....	23	26	.....	.....	.....	.....	49
Cayuga.....	25	29	.....	.....	.....	.....	54
Chautauqua.....	96	76	3	.....	.....	.....	175
Chemung.....	8	16	.....	.....	.....	.....	24
Chenango.....	1	10	2	1	.....	.....	14
Clinton.....	4	9	.....	.....	.....	.....	13
Columbia.....	33	26	.....	.....	.....	.....	59
Cortland.....	7	2	1	.....	.....	.....	10
Delaware.....	2	1	.....	.....	.....	.....	3
Dutchess.....	32	21	.....	.....	.....	.....	63
Erie.....	558	412	22	21	1	.....	1,014
Essex.....	.....	.....	.....	.....	.....	.....	.....
Franklin.....	12	4	7	6	2	.....	31
Fulton.....	77	82	4	.....	6	1	170
Genesee.....	19	22	1	.....	1	3	46
Greene.....	3	2	.....	.....	.....	.....	5
Hamilton.....	.....	.....	.....	.....	.....	.....	.....

\* A total of 4,603 applications (all but 27 in New York City), have been refused on first investigation; but all but 174 of these were afterward granted or canceled on reinvestigation

3. CHILDREN FOUND IN FACTORIES—*Continued.*

COUNTY.	UNDER 16 BUT NOT UNDER 14, EMPLOYED —				UNDER 14 YEARS. (Illegally employed.)		Total children under 16.
	LEGALLY.*		ILLEGALLY.†		Boys.	Girls.	
	Boys.	Girls.	Boys.	Girls.			
Herkimer.....	20	36	1	.....	.....	.....	57
Jefferson.....	9	7	.....	.....	.....	.....	16
Kings†.....	522	1,113	55	80	13	8	1,791
Lewis.....	2	2	.....	.....	.....	.....	4
Livingston.....	1	.....	.....	.....	.....	.....	1
Madison.....	6	11	.....	.....	.....	.....	17
Monroe.....	341	460	11	16	2	4	834
Montgomery.....	71	102	1	.....	.....	.....	174
Nassau.....	3	5	6	.....	.....	1	15
New York†.....	1,313	2,835	140	262	25	29	4,604
Niagara.....	65	69	11	5	1	.....	151
Oneida.....	164	250	1	.....	.....	.....	415
Onondaga.....	152	165	6	7	.....	2	332
Ontario.....	.....	.....	.....	.....	.....	.....	.....
Orange.....	73	38	1	.....	.....	.....	112
Orleans.....	17	9	2	.....	.....	.....	28
Oswego.....	31	47	1	.....	.....	.....	79
Otsego.....	3	9	.....	.....	.....	.....	12
Putnam.....	3	1	.....	.....	.....	.....	4
Queens†.....	175	301	14	22	3	5	520
Rensselaer.....	62	84	4	2	.....	.....	152
Richmond†.....	38	39	2	.....	.....	.....	79
Rockland.....	20	12	.....	.....	.....	.....	32
St. Lawrence.....	12	28	5	2	.....	.....	47
Saratoga.....	8	19	2	.....	.....	.....	29
Schenectady.....	95	12	.....	.....	.....	.....	107
Schoharie.....	.....	.....	.....	.....	.....	.....	.....
Schuyler.....	.....	.....	.....	.....	.....	.....	.....
Seneca.....	3	5	.....	.....	.....	.....	8
Steuben.....	8	3	.....	.....	.....	.....	11
Suffolk.....	36	54	3	1	.....	.....	94
Sullivan.....	.....	.....	4	.....	1	.....	5
Tioga.....	.....	3	.....	.....	.....	.....	3
Tompkins.....	1	1	.....	.....	.....	.....	2
Ulster.....	100	136	.....	.....	.....	.....	236
Warren.....	2	3	.....	.....	.....	.....	5
Washington.....	7	19	.....	.....	.....	.....	26
Wayne.....	14	13	1	.....	.....	.....	28
Westchester.....	57	67	2	9	2	.....	137
Wyoming.....	13	22	.....	.....	.....	.....	35
Yates.....	6	3	.....	.....	.....	.....	9
Total: 1910.....	4,514	6,947	314	445	57	53	12,330
1909.....	4,182	5,411	323	419	44	36	10,415
1908.....	4,711	5,434	672	656	144	161	11,778
1907.....	5,999	6,483	1,212	1,123	108	57	14,982

\* *i.e.* having employment certificates.† *i.e.* not having employment certificates.

† New York city.

4. NUMBER OF CHILDREN'S EMPLOYMENT CERTIFICATES ISSUED BY  
BOARDS OF HEALTH IN FIRST AND SECOND CLASS CITIES.

New York City:*	1907.	1908.	1909.	1910.
Bronx Borough.....	1,875	2,101	2,450	3,186
Brooklyn Borough.....	1,078	5,354	8,910	11,214
Manhattan, Borough.....	12,266	12,772	14,936	18,261
Queens Borough.....	669	607	1,596	2,262
Richmond Borough.....	144	103	120	137
Total.....	16,032	20,937	28,012	35,060
Buffalo.....	1,250	832	1,123	1,403
Rochester.....	965	556	1,066	1,378
Syracuse.....	816	674	856	930
Albany.....	231	110	174	258
Troy.....	361	280	306	364
Utica.....	440	288	406	638
Yonkers.....	113	105	195	135
Schenectady.....	280	134	204	312

## 5. SUMMARY OF PROSECUTIONS (FACTORIES AND MINES).

RESULTS TO SEPTEMBER 30, 1910.

OFFENSE.	No. of cases	Pend- ing.	Dis- missed or ac- quitted	With- drawn.	CONVICTED.		
					Sen- tence sus- pended.	Fined.	Fines.
(A). Proceedings Instituted Before October 1, 1909.							
II. SANITATION AND SAFETY:							
Failure to provide lights in halls, stairways or water-closets.....	1	.....	.....	.....	1	.....	.....
Failure to provide water-closets.....	3	.....	2	.....	.....	1	\$50
Failure to supply sufficient water to flush water- closets.....	1	.....	1	.....	.....	.....	.....
Failure to keep water-closets clean.....	1	.....	.....	.....	.....	1	25
Failure to provide dressing rooms.....	2	.....	.....	.....	.....	2	40
Failure to provide wash rooms.....	1	.....	.....	.....	1	.....	.....
Failure to provide sufficient ventilation.....	5	1	.....	3	.....	1	20
Failure to provide exhaust fans.....	16	.....	.....	.....	14	2	40
III. CHILDREN:							
Employing children under 14.....	14	.....	2	3	2	7	145
Employing children under 16 without Board of Health certificates.....	35	2	6	.....	11	16	320
Employing children under 16 more than 8 hours per day.....	1	.....	.....	1	.....	.....	.....
Employing children under 16 after 5 P. M. or before 8 A. M.....	1	.....	.....	.....	.....	1	20
IV. WOMEN AND MINORS:							
Employing women more than 60 hours per week..	6	.....	6	.....	.....	.....	.....
VI. WORK SHOPS IN TENEMENTS:							
Permitting goods to be manufactured in unlicensed houses.....	6	.....	2	.....	.....	4	80
X. MISCELLANEOUS:							
Failure to pay wages weekly.....	1	.....	.....	.....	.....	1	250
Total.....	94	3	19	7	29	36	\$990

(B). Proceedings Instituted in Current Year.

I. ADMINISTRATION:							
Failure to report accident.....	9	.....	.....	.....	9	.....	.....
Interfering with deputy factory inspector.....	5	.....	5	.....	.....	.....	.....

\* Figures for New York City include "mercantile" as well as "manufacturing" certificates.

5. SUMMARY OF PROSECUTIONS (Factories and Mines) — *Continued.*

RESULTS TO SEPTEMBER 30, 1919.

OFFENSE.	No. of cases.	Pend- ing.	Dis- missed or ac- quitted.	With- drawn.	CONVICTED.		
					Sen- tence sus- pended.	Fined.	Fines.
II. SANITATION AND SAFETY:							
Failure to provide lights in halls, stairways or water-closets.....	3	2	.....	.....	1	.....	.....
Failure to provide water-closet.....	6	.....	2	1	1	2	\$40
Failure to provide sufficient water to flush water-closets.....	1	.....	.....	.....	.....	1	20
Failure to keep water-closets clean.....	4	1	.....	.....	.....	3	75
Failure to repair water-closets.....	1	1	.....	.....	.....	.....	.....
Failure to provide separate water-closets.....	2	.....	2	.....	.....	.....	.....
Failure to whitewash walls of water-closets.....	1	.....	1	.....	.....	.....	.....
Failure to provide dressing room.....	12	5	.....	.....	6	1	20
Failure to provide drying room in foundry.....	1	.....	.....	.....	.....	1	25
Failure to keep floors clean.....	1	1	.....	.....	.....	.....	.....
Failure to paint halls.....	1	.....	1	.....	.....	.....	.....
Failure to provide sufficient ventilation.....	2	1	.....	.....	.....	1	100
Failure to provide sufficient air space.....	3	.....	.....	.....	2	1	20
Failure to provide exhaust fans.....	13	2	2	.....	8	1	50
Failure to guard saws.....	7	.....	3	.....	4	.....	.....
Failure to guard set screws.....	2	.....	.....	.....	.....	2	45
Failure to guard fly wheel.....	1	.....	1	.....	.....	.....	.....
Failure to guard shafting.....	1	1	.....	.....	.....	.....	.....
Failure to guard overhead belting.....	2	.....	.....	.....	.....	1	50
Failure to provide hand rail.....	2	.....	.....	.....	2	.....	.....
Failure to keep doors unlocked during working hours.....	1	.....	1	.....	.....	.....	.....
I.I. CHILDREN:							
Employing children under 14.....	66	15	4	.....	19	28	595
Employing children under 16 without Board of Health certificate.....	221	43	31	5	60	82	1,705
Employing children under 16 more than 8 hours per day.....	12	1	1	1	5	4	100
Employing children under 16 after 5 P. M. or before 8 A. M.....	192	5	20	2	111	54	1,235
Employing children under 16 on dangerous machinery.....	1	.....	.....	.....	.....	1	20
IV. WOMEN AND MINORS:							
Employing women and minors more than 6 days in one week.....	9	.....	.....	.....	7	2	45
Employing women and minors more than 60 hours per week.....	8	.....	.....	.....	4	4	90
Employing females after 9 P. M.....	6	.....	.....	.....	5	1	25
VI. WORK SHOPS IN TENEMENTS:							
Permitting goods to be manufactured in unlicensed houses.....	1	.....	.....	.....	.....	1	20
VII. BAKERIES:							
Removing labels from oven and instruments.....	1	.....	.....	.....	.....	1	20
Failure to provide ventilating pipes over oven door.....	3	.....	1	.....	2	.....	.....
Failure to whitewash walls and ceilings.....	2	.....	.....	.....	2	.....	.....
Failure to plaster stone walls of bakery.....	1	1	.....	.....	.....	.....	.....
X. MISCELLANEOUS:							
Failure to pay wages weekly.....	5	1	.....	2	.....	2	100
Failure to pay wages in cash.....	1	1	.....	.....	.....	.....	.....
Total.....	610	81	75	11	249	194	\$4,400
Grand Total.....	704	84	94	13	278	230	\$5,390

# 6. ACCIDENTS REPORTED IN FACTORIES, MINES AND QUARRIES IN YEAR ENDED SEPTEMBER 30, 1910.

## (a) AGE AND SEX OF PERSONS INJURED.

CAUSE.	AGE.				SEX.	
	Under 16 years.	16-18 years.	18 + years.	Not stated.	Total.	
Mechanical power.....	72	763	10,306	104	11,245	10,567
Heat and electricity.....	6	48	2,062	19	2,135	2,106
Fall of person.....	11	56	1,909	17	1,993	1,923
Injured by weights.....	4	98	5,731	20	5,853	5,833
Flying objects.....	2	16	1,034	8	1,060	1,057
Vehicles, and accidents caused by animals.....	2	14	431	3	450	448
Miscellaneous.....	8	98	2,531	17	2,654	2,586
Total.....	105	1,093	24,004	188	25,390	24,520
						870

## (b) CAUSE AND EXTENT OF INJURIES.

CAUSE.	EXTENT OF INJURIES.				
	Total cases.	Serious, probably Temporary.	permanent.	Permanent.	Fatal.
Mechanical power.....	11,245	7,739	1,621	1,731	154
Heat and electricity.....	2,135	1,818	175	29	113
Fall of person.....	1,993	1,857	78	28	30
Injured by weights.....	5,853	5,302	334	178	39
Flying objects.....	1,060	929	102	29	.....
Vehicles, and accidents caused by animals.....	450	397	36	12	5
Miscellaneous.....	2,654	2,478	130	34	12
Total.....	25,390	20,520	2,476	2,041	353

## (c) EXTENT OF INJURIES, BY INDUSTRIES.

INDUSTRIES.	EXTENT OF INJURIES.				
	Total cases.	Serious, probably Temporary.	permanent.	Permanent.	Fatal.
1. Stone, clay and glass products....	743	565	61	73	44
2. Metals, machines and conveyances.	15,836	13,049	1,550	1,120	117
3. Wood manufactures.....	1,562	1,060	183	298	21
4. Leather and rubber goods.....	453	330	51	61	11
5. Chemicals, oils, paints, etc.....	1,130	989	71	42	28
6. Paper and pulp.....	1,171	919	153	87	12
7. Printing and paper goods.....	721	527	100	89	5
8. Textiles.....	1,264	1,039	105	112	8
9. Clothing, millinery, laundry, etc..	288	227	29	27	5
10. Food, liquors and tobacco.....	763	608	62	65	28
11. Water, light and power.....	627	548	37	18	24
12. Tunnel construction.....	817	647	73	48	49
13. Tenant factory buildings.....	15	12	1	1	1
Total.....	25,390	20,520	2,476	2,041	353



## WORK OF DEPUTY FACTORY INSPECTORS.

During the year ended September 30, 1910, the force of deputy factory inspectors made regular inspections throughout the State, including factories, laundries, mines, tunnels and tenement houses, to the number of 56,816. This number exceeds the figures for the previous year by 3,099. In fact, the number of inspections during the past four years shows the same steady increase, year by year, for in 1907, 46,816 inspections were made, exactly ten thousand less than in the last year. The number of manufacturing plants is growing, while new legislation has extended the power and duties of the Department in various ways.

The popularity of modern loft buildings with all the conveniences in the way of elevators, light, heat, ventilation and sanitary arrangements is evidenced by the fact that their number is rapidly increasing, especially in New York city. As a result inspections of factories located in such buildings numbered 25,847 as against 24,304 during the previous year, or nearly three thousand more than in 1907, while the number of inspections of factories in separate buildings for the same period has decreased 253.

A tenant factory is a building with at least two tenants, one of which is a factory. Therefore, the loft building used wholly or partially for manufacturing purposes holds about two-thirds of the factories of the State. Until quite recently, very few such buildings were found outside New York City, but from the standpoint of convenience and economy they are attractive to most manufacturers of light goods, and as a consequence many up-state cities are erecting loft buildings. Aside from nearly 57,000 regular inspections, 41,200 visits were made on applications for licenses, in the investigation of complaints and compliances with orders. Of the visits on compliances, 21,929 were first and 13,531 were second or subsequent visits.

A slight increase over 1909 is noted in tagging of goods in tenements, while seventy more tenant factories were tagged in 1910 than in 1909. In bakeries the ovens and utensils were tagged in 191 cases, and in some instances such bakeries have not been re-opened. The use of the tag in bakeries may have something to do with the total number of inspections in bakeries, which decreased 697 from the figures of the previous year.

The total number of prosecutions instituted by officials of the factory inspection bureau was 608, while the days or parts of days spent in court by deputies in connection with these cases were 1,442. In 1909, 1,699 days in court were spent on 511 cases; the increase in number of cases and decrease in time, speak well for Counsel F. H. Cunningham and his assistant, Charles Whelan, who have charge of the legal work of the bureau.

During the past year, many complaints have been received, alleging that corporations were failing to pay the wages of employees weekly. All such complaints have been investigated, and whenever sustained, orders were issued, directing compliance with the statute. I know of no instance where compliance with the order has not been reported.

#### TENEMENT MANUFACTURES.

During the entire period in which the present tenement-house law has been effective, 15,750 applications for licenses have been received, all but 567 of which were in Greater New York. During the 1910 year 1,637 applications were made, all but 20 having been investigated. Of these, 154 were refused, 23 were canceled and 20 were pending on September 30, 1910.

The inspections during the year were carefully made, and covered practically all of the licensed tenements and rear-shop buildings in Greater New York.

At the times of the inspectors' visits, persons to the number of 20,123 were found working in 12,829 apartments. Of the persons employed, 5,030 were working in 1,556 separated shops in stores, wherein the license features of the tenement-house law do not apply. One hundred and forty-seven persons were illegally employed, 77 children of school age were working during the sessions of the public schools and while 171 cases of disease were reported in licensed houses, but two cases (measles) were found in apartments where work was being done.

The general sanitary condition of licensed tenements was very satisfactory, orders having been issued against but 477 buildings, while in the case of rear-shop buildings, only 27 were found requiring orders.

In his report to me, the superintendent of licenses, Daniel

O'Leary, says: "Generally speaking, the work of the bureau is satisfactory. We try to combine with our legal duties patience and common sense, with a mingling of charity here and there, for those upon whom the strong arm of the law rests heaviest are the very poor, and we must be very careful lest in our overzeal we make the burden heavier."

#### ACCIDENTS.

The total number of accidents reported to the bureau during the 1910 year was 25,390, an increase over the figures of the preceding year of 8,560, or approximately fifty per cent. One would naturally infer that factory accidents were increasing at an alarming rate, but such is not the case. I further believe that the 1911 year will show a proportionally larger number of accidents reported to the bureau, and even in the face of this fact, I am of the opinion that accidents in factories are decreasing. In the report of the factory inspector for the year 1887, there is published a list of 156 persons who were either injured or killed throughout the State during the months of June, July, August, September, October and November, 1886. This list included all reports received by the Department during the six months mentioned. The law requiring the reporting of accidents (with minor changes) is the same to-day as it was in 1886.

Appreciating that the prevention of industrial accidents was one of the most important functions of the factory inspector, the first effective step was to find out how, why and where accidents occurred. A careful investigation, supplemented by the use of newspaper clippings disclosed the fact that large numbers of manufacturers throughout the State refrained from reporting accidents. The deputy factory inspectors were therefore instructed to closely question factory owners in all places where accidents might be expected to occur, and also to extend their investigation among employees. Some manufacturers considered that a report to the company carrying their insurance was what was required. In Buffalo, actions for failing to report accidents were instituted against two large manufacturing concerns, from whom no reports had been received in years. Immediately after the actions were started, due doubtless to the publicity given by the press, accident reports were received in large

numbers, not only from Buffalo but throughout the western part of the State. One of the two defendants, above mentioned, mailed to this office over forty reports of accidents which had occurred in its plant during the preceding three months, and since the trial, reports have been coming in regularly. All reports of accidents were carefully read as soon as received at this office. Whenever it appeared that the accident occurred on an unguarded machine, an order was immediately sent to the responsible person, requiring compliance with the law relative to this and similar pieces of machinery. Compliance with these orders was then later investigated by a deputy inspector.

If the accident report showed the machine in question to have been properly guarded, a letter was written asking how, and whether at time of accident the guard was so placed as to render it most effective.

During the year 772 letters have been sent out on the above subjects. The replies to such letters were remarkable in their uniformity. "It was guarded as well as possible," was the most common answer to our inquiry as to how the machine was guarded. The matter was not allowed to rest, however, until the facts were disclosed, either by correspondence or through a deputy inspector. As a result of our investigations 565 orders were issued during the year, relating to machinery which was either totally unguarded at time of accident, or upon which the guard had been permanently or temporarily removed.

Insistence upon orders to guard certain kinds of circular saws, has brought repeated protests from manufacturers and even from workmen who claimed that the hazard was increased by the use of guards. My attention has been called to but three accidents on saws, during the year, which occurred when a guard was in proper position. I have yet to see a saw-guard which will prevent the possibility of any and every accident. An effective guard will, however, reduce the hazard to practically nil.

Of the total number of accidents reported over ninety-six per cent occurred to males; less than four-tenths of one per cent to children of both sexes under 16 years of age and about four per cent to those between the ages of 16 and 18. The operation and use of mechanical power was the cause of 11,245 accidents, or

nearly half of all reported, while 5,853 were injured by weights or inanimate objects. The industry group of "metals, machines and conveyances" furnished considerably more than half of the accidents, 15,836 being reported.

Of the total number of persons injured, 353 or one and four-tenths per cent were killed or died as a result of the accident, eight per cent were permanently disabled, and nearly ten per cent were seriously injured with probably more or less permanent results.

In spite of the figures for the year, I am of the opinion that the work of deputy inspectors, relative to the safeguarding of the danger points in factories, is becoming more and more effective and that the actual number of factory accidents is slowly but surely decreasing.

#### CHILD LABOR.

For the year ended September 30, 1910, 12,330 children under the age of sixteen years were found employed in the factories of the State, exceeding the number during 1909 by nearly two thousand. Of the total number employed, 110 were under the age of fourteen, and in each instance where sufficient proof of the child's age could be obtained by the inspector, the employer was prosecuted. There were 12,220 children between the ages of fourteen and sixteen, 759 of whom were illegally employed, or 6.2 per cent.

The steady decrease in number of children between 14 and 16 years, who are illegally employed, is as follows:

1907.....	15.8 per cent.
1908.....	11.6 per cent.
1909.....	7.2 per cent.
1910.....	6.2 per cent.

Of the total number in this class, 7,392 were girls and 4,828 boys. At the time of the hearing on the bill limiting the hours of children to eight per day, and between the hours of 8 A. M. and 5 P. M., and also the bill prohibiting the employment of children on dangerous machines and at certain occupations, it was argued that the passage of these measures would drive children out of factories on to the streets. The figures quoted above do not sustain such arguments. Many manufacturers have been more or less indifferent as to the question of hours, and it has been necessary to

bring a large number of actions for the employment of children after 5 P. M. No such actions were brought, however, until the employer had been warned, both by a deputy inspector and by a written notice from the Albany office.

In Greater New York were found 6,994 children out of the total of 12,330, or 55 per cent, 2,300 being boys and 4,694 girls, while in the counties of Chautauqua, Erie and Schenectady boys considerably outnumbered girls. In four counties, no children under 16 were employed at the time the factories were inspected. In but thirteen counties of the State, were found children under the age of 14 years, Greater New York furnishing 83 of the total of 110 for the state. While from certain viewpoints, the entering upon life's struggles at the age of 14 is more or less deplorable, the safeguards that are thrown about a child in a New York State factory are quite comprehensive. Before obtaining an employment certificate, he must satisfy the officer issuing it, by documentary evidence, that he is in fact upwards of the age of 14, and that he attended school at least 130 days during either the previous year, or the year next preceding his fourteenth birthday. The examining officer is also supposed to make a physical examination of the child, and to certify that the applicant has reached the normal development of a child of his age, and is in sound health and physically able to perform the work which he intends to do. Upon entering employment, the child is prohibited from working before 8 A. M. or after 5 P. M., or for more than eight hours per day. He is also prohibited from working upon specified machinery, which is conceded to be more or less dangerous, and at certain trades or employment, where his life or health might be endangered. The one weak spot in the above safeguarding of the child is the failure on the part of health officers to make thorough physical examinations, and the further fact that an employment certificate is valid at whatever occupation a child may select. For instance, a child may intend to trim hats in a millinery establishment at the time of applying for a certificate. Two weeks later, an inspector finds her working (legally of course) at some occupation requiring extreme physical exertion and attention.

Children in public schools are carefully examined at intervals

by competent physicians, and ear, eye, nose, throat and other functional disorders are given immediate attention. Why should not the 13,000 child workers of the State be given equal protection, and by the State?

#### PROSECUTIONS.

On September 30, 1909, there were ninety-four pending cases, and at the end of our 1910 year there were three of these still pending, two of which were tried in January, 1909, in which no decision has as yet been rendered. With the three exceptions noted above, the ninety-four pending cases have been disposed of as follows: Nineteen were dismissed or acquitted, seven withdrawn, while out of sixty-five convictions, defendants received suspended sentences in twenty-nine instances, and in the other thirty-six paid fines amount to \$990.

During the current year, 610 separate cases were begun, with the following results: Eighty-one were pending at the close of the year, seventy-five were acquitted or dismissed in the Magistrates' Courts, and eleven cases were withdrawn. There were 443 convictions, with 249 suspended sentences and 194 cases in which fines to the extent of \$4,400 were imposed.

In nine cases where actions were instituted for failure to report accidents, defendants were let off with suspended sentences. For interfering with deputy factory inspectors while engaged in the performance of their official duties the five defendants were acquitted before leaving magistrates. Under violations of the law relating to sanitation and safety, sixty-seven cases were begun and out of 39 convictions, fines were imposed against fourteen defendants. As usual the illegal employment of children furnished the largest number of cases, 492 coming under this head. In forty-seven convictions for employing children under fourteen years of age, fines of \$570 were imposed against twenty-eight defendants. There were 221 cases for the illegal employment of children between the ages of 14 and 16, resulting in 142 convictions, with sixty suspended sentences and eighty-two separate fines. For employing children after 5 P. M. or before 8 A. M., 165 employers were convicted, in fifty-four cases paying fines of \$1,235. One employer, who insisted on employing a child on dangerous machinery was fined \$20. Out of twenty-three cases relating to the

employment of women and minors, all were convicted, fines being imposed in seven cases. Six actions were instituted against corporations for failure to pay wages of their employees weekly and in cash.

There were ninety-nine more cases brought during 1910 than in 1909, and the 1910 cases yielded \$4,400 in fines, as against \$3,640 in 1909.

The sum total of cases handled during 1910 was 704, with results as follows: Still pending, 84; acquitted or dismissed, 94; withdrawn, 18; suspended sentences, 278; fined, 230, and amount of fines, \$5,390.

Respectfully submitted,

(Signed) WILLIAM W. WALLING,

*First Deputy Commissioner and Factory Inspector.*



## (B) REPORT OF THE MEDICAL INSPECTOR OF FACTORIES.

HON. JOHN WILLIAMS,

*Commissioner of Labor, Albany, N. Y.*

SIR: I hereby submit my report as medical inspector of factories for the year ended September 30, 1910.

The line of procedure previously mapped out has been more definitely followed, especially, so far as intensive work in the field of industrial hygiene was concerned, and the ending of the fiscal year marks the passing of the experimental stage, as to definite methods for analytical investigations to determine dangerous factors incidental to the various industries.

This has been made possible, first by the assignment of Deputy Factory Inspector Vogt to sanitary work, he being not only a qualified chemist of experience, but also formerly a sanitary inspector in the State Health Department; secondly, the Department has been fortunate in having had temporarily placed at its disposal the use of a splendid laboratory which has been productive of beneficial results, and in one instance, of material aid to the Department in prosecution.

It became necessary to devote some time, first, to arranging the laboratory to suit the needs of the Department, second, to work of an experimental character, whereby results were obtained, not only applicable to practical routine investigations, but also of legal and scientific value.

In the course of routine work, a large number of visits were made to factories and tenant factories. The work in this connection as related to old ventilation cases was expedited by the assistance of the deputy factory inspector.

Upon request, special inquiries were made as to the effect upon the health of the workers in the manufacture of mica articles; the use of bronze powder in stationery engraving; confectionery; cotton weaving; and electrical accumulators.

Following the plan of the former year, special investigations were undertaken in the match industry, in the pearl button industry, and in the human hair goods industry; those into the match industry, and the pearl button industry were completed. The question of undertaking an investigation as to industrial

fatigue was considered very thoroughly, but after interviewing a number of authorities, and giving the matter special attention, it was found that it would be necessary to devote considerable time to the question, and notwithstanding that a large amount of data might be obtained, the results would not be of material or practical value to the Department. The subject was therefore temporarily abandoned.

Upon request work has been done for the mercantile bureau, regarding ventilation of basements in mercantile establishments, and in one case, that of a large department store, there was brought a prosecution based upon the results of our investigations. This case was taken up very carefully, especially as the defense engaged the services of an expert chemist, and had the Department not been possessed of laboratory facilities, the case would undoubtedly have been weakened in depending merely upon carbon dioxide determination, as proof of improper ventilation. As it was, the magistrate decided the case by declaring the section of the law unconstitutional, not that the Department had not proven the unhealthful condition of the basement.

The Department was active in public health matters by being represented, and taking part in the meetings of the American Public Health Association (this being a body officially recognized by the countries of North and South America); in the New York State Sanitary Officers Conference; and in the First National Conference on Industrial Diseases.

It is with subjects intimately related to industrial hygiene that medical inspection is concerned; for while it cannot be questioned that certain occupations are inimical to health, it is also true that in many cases conditions not necessarily connected with the occupations are factors in the production of disease. Therefore, it becomes necessary in pursuing such investigations, not only to secure data that would aid in determining the part played by the various occupations with reference to disease and the physical effects upon workers, especially women and children, but also to note other causes and the absence of specific legislation covering various points related thereto.

I have therefore, undertaken to discuss under separate headings, results of my visits and investigations, and the application of those sections of the Labor Law relating to industrial hygiene.

## ACCIDENTS.

The question of accidents is undoubtedly of importance from a medical standpoint. I have given the matter some attention.

It is evident that a number of accidents occurring in the large cities, especially New York, are not reported. Section 87 of the law will undoubtedly do much toward overcoming this lack of reporting, and the securing of valuable data. As referred to in a previous report, the law is only specific in that it provides for the guarding of machinery.

It has been impossible to obtain accurate data, but through inquiry and from personal knowledge, it was ascertained that a number of accidents occur to the eyes of workers in metal and stone industries through the flying about of small particles. In many instances the injury has caused the loss of sight in one eye, and ultimately complete blindness resulted. In foreign countries, there is a legal requirement that protection be furnished for the eyes of workers exposed to such dangers. Workers exposed to glaring lights are liable to danger of blindness, and should also be furnished with proper protection.

Where there is exposure to action of irritating dust or fumes, respirators should be furnished, and workers be required to use them. Where workers are required to handle acids or caustics, protection by means of rubber aprons and gloves should also be furnished.

Among the accidents reported to the Department during the fiscal year, and tabulated by the bureau of statistics, were the following: struck in eye by pieces of metal, glass, etc.; inhalation of poisonous gases; burns caused by electricity; burns caused by caustics; burns caused by vats containing liquid or caustics. This in my opinion is conclusive proof of the need for specific legislation.

Much valuable data with reference to occupational diseases might be obtained were the accident reports to contain the time of day at which accident occurred, character of light and ventilation, as well as a standard physical certificate of the worker at the time of accident. Specific legislation should be had requiring the reporting of all cases of poisoning from lead, antimony, arsenic, copper, (tc. These reports would not only be of statistical value,

but also an aid in determining the dangerous nature of an industry, and would be of material assistance in determining the need of remedial measures.

The importance of such reports has been shown in the tabulation compiled by Dr. Legge, H. M. Inspector of Factories for Great Britain, to whom all such reports are referred. These reports bear immediately upon the study of diseases due to occupations.

I would recommend that the Department be given power to require protection for workers exposed to glaring lights, small particles of flying metal or mineral endangering eyes, irritating effects of dust or fumes, burns from acids or caustics, high tension electrical currents.

#### VENTILATION.

The proper ventilation of workrooms where manufacturing processes are carried on is best accomplished through the application of mechanical means; therefore, it becomes a problem to be dealt with mainly by the engineer and mechanic; the sanitarian merely ascertains the impurities present, the specific causes thereof, and recommends a remedy. In considering the question from a hygienic standpoint, it will be discussed in connection with the subjects of air, light, temperature, humidity, dust, etc.

Considerable time has been devoted to routine work in connection with carbon dioxide determinations as related to old ventilation cases. The constitutionality of section 86 having been passed upon, many compliances have resulted therefrom, and somewhat relieved the congestion of this routine work. In many cases the carbon dioxide determinations were supplemented by complete laboratory analyses of samples of air.

While considerable progress has been made in the betterment of conditions, there are still a number of problems requiring solution. With the large factory buildings the question is merely one of expense, but a serious problem is that of the small tenant factories and converted old dwellings. Here it is a question not merely of cost of installation, but of the practical unfitness of the buildings for certain manufacturing purposes. To install a ventilating system (which is the ideal method), is practically ini-

possible, and the use of fans, is, in my opinion, at times likely to be productive of ill results to the workers, so that there remains only the windows as an aid for natural ventilation. In maintaining ventilation it is necessary to guard against direct draughts.

The intensive work pursued during the year in regard to this subject, made possible through proper laboratory facilities, demonstrates the fact that sanitary experts and engineers are not giving the question the attention fully expected. The problem, especially in relation to the small places in congested districts is all important, and is not merely one of air space, and amount of air to be supplied, but also of temperature, humidity, light, etc.

The results of investigations have proven that a general standard of ventilation is not applicable to all industries; there are standards of the various factors relating to ventilation which should be specific, and which I will discuss under separate headings.

The British Factory Acts recognize two kinds of standards; (1) hourly delivery of fresh air, (2) proportion of carbon dioxide. A standard based upon hourly fresh air delivery can only be applied under certain conditions when power is supplied for mechanical means of ventilation, and compliance may only be proven by means of anemometer readings which cannot always be accurately ascertained. Where the so-called natural ventilation is relied upon, and there is a tendency to crowd rooms to their legal capacity, it becomes a difficult matter to secure adequate continuous ventilation, especially in rooms divided by partitions, and where illuminating gas is used for commercial purposes. In such places there is always a tendency to close the ordinary means employed, namely, doors, windows, and ventilators and when open, the changing of the air is dependent upon currents created by the velocity of the wind outside and the difference between the external and the internal temperatures. In such cases it would be impossible to secure a compliance based upon a standard of hourly fresh air delivery, and it is appreciable, that with limited amount of air space per person, the constant maintaining of a carbon dioxide standard would become difficult without mechanical means of ventilation.

A partial solution of the problem may be found in the following extract from a circular issued by H. M. Chief Factory Inspector of Great Britain.

In the absence of mechanical ventilation it is incumbent upon the occupier to see that the other means upon which he relies for adequate ventilation of each room are sufficient for the purpose, and maintained in use throughout the working hours. This is especially necessary where the average air space of each worker is small, say under 500 cu. ft., and in all workrooms in which gas is used.

Reliance should not be placed upon occasional ventilation by doors or windows, not always kept open, or upon any other ventilating openings which the workers are allowed to close. The means must be such as in practise to secure at all times during working hours reasonable purity of the air, and the occupier is responsible not only for providing them but seeing that they are used. All permanent air inlets whether by windows or special ventilating openings, should be so arranged that the current is directed upwards and does not impinge directly upon the worker; this is essential and can be secured by simple arrangements at small cost.

The same observations apply to mechanical ventilation by fans. This whether for purposes of general ventilation, or for the removal of dust or fumes, should be installed under the advice of a competent engineer. Many installations have failed to give satisfactory results owing to faulty planning, or omission to provide for adequate counter openings.

The Department should be given power, after investigation, to formulate regulations and set standards of ventilation applicable to the various industries. That this is practicable is evidenced in the results obtained from the Departmental Regulations covering ventilation in compressed air workings.

#### AIR.

The food most essential for the support of human life is air; without it, for even a few minutes, we would cease to exist. Yet despite this fact, we have no specific legislative standard regarding its purity. This is of the utmost importance not only as regards the question of ventilation, but also as to the question of disease, for it is an established fact that a vast number of diseases are due to atmospheric conditions, and this is especially true of the so-called occupational diseases. While the sections of the law require the provision for, and maintaining of, proper and sufficient ventilation, there is no specific standard as to the quality of the air to be supplied, or the permissible limit of vitiation.

Notwithstanding the fact that scientists have failed to add further specific standards to that recommended by Pettenkofer, namely, nine parts carbon dioxide in 10,000 volumes of air, very

little intensive research has been pursued so far as ascertainable. The legal standards are based upon carbon dioxide determinations; but in this state there is no legislative standard whatsoever. It is necessary that some legal standard be based upon scientific findings for use as a basis in future work. This is important, especially where prosecution becomes necessary. While we may produce proof of the necessity for proper ventilation, considered scientifically, it may be demanded that we show a legal standard of the permissible amount of impurity that we base our order upon, and this the Department has been confronted with in the prosecutions already undertaken. The impurities generated in the course of the processes of manufacture when due to machinery, are readily dealt with by the application of section 81 requiring mechanical means for their removal. Where the impurities generated are from other means than machinery, section 86 requires that the room must be ventilated in such a manner as to render them harmless, so far as is practicable; but where the impurities are the products of respiration and combustion alone, we have no specific legislative standard as to the permissible amount of impurity upon which we may decide the adequacy or inadequacy of the means employed for maintaining proper ventilation.

For some time, the American Public Health Association has had a Committee on Standard Methods for the Examination of Air, of which, Prof. C. E. A. Winslow was chairman. The following are some extracts from their report.

The committee believes that determinations of temperature, humidity, dust and intensity of light should be fundamental in all sanitary investigations. Standard procedures are recommended for all four of these tests.

Numerous efforts have been made to develop methods of analyzing air for carbon dioxide, applicable to the varying conditions under which the chemist, sanitary engineer or inspector must work.

\* \* \* in preparing a description of the most satisfactory processes for use as standard methods, the available methods have been classed either as accurate methods or as general tests.

For accurate inspection work, say one quarter of a part per 10,000, the portable form of the Pettersson & Palmquist apparatus is recommended.

While their report treats exclusively of standard methods of procedure for determining impurities, there appears no recommendation as to permissible amount of the impurities so determined.

During the fiscal year the Department has given this matter considerable attention, and investigation has been made possible through laboratory facilities. As a result of this work it would seem that the percentage of ammonia, and also of the oxidizable organic matter present, should be taken into consideration, and serve as a basis for a standard of permissible amount of impurities. I would recommend the adoption of the carbon dioxide standard as recommended by Dr. Haldane of the British Departmental Committee, and referred to in the report for 1908, and also a standard of 1 part of ammonia per million, 4 grams of oxidizable organic matter per million litres.

There are many industries in which the carbon dioxide may be little more than that found in outdoor air, at the same time the air might contain impurities such as dust, fumes, or gases; the mere physical proof of their presence being sufficient for the immediate application of a specific section requiring their removal. But in tenant factories in congested districts, where the industry is comparatively clean, the carbon dioxide present is found as high as 35 parts in 10,000 volumes. In such cases it becomes necessary to use analytical means to determine the amount of vitiation in order to enforce compliance with section 86 as to ventilation of the workroom.

The question of purity of air is of importance in relation to basements and cellars; this has been evidenced in the work undertaken for the mercantile bureau. It is necessary that the air to be supplied, be taken from a source as nearly pure as possible. Air taken from the street level is impure, as has been proven by scientific investigations, and corroborated by Department investigation. It is true that the carbon dioxide found, rarely exceeds four parts in ten thousand volumes, but there are large quantities of dust present, and high amount of organic matter, and in consequence of these, a large number of pathogenic (disease producing) bacteria.

Department secured air samples at about one foot above sidewalk of a wide street near the river front, and shortly after the street had been swept by the Street Cleaning Department. The day was clear and sunny, the weather was mild; the analyses showed as follows:



Total solids (dust).....	30 grams per million litres.
Oxidizable organic matter.....	11 grams per million litres.
Ammonia.....	1 part per million.
Carbon dioxide.....	4 parts per 10,000 volumes.

Analysis of sample taken about fifty feet above the same street on a roof showed —

Total solids (dust).....	5 grams per million litres.
Oxidizable organic matter.....	0.48 grams per million litres.
Ammonia.....	nil.
Carbon dioxide.....	3 parts per 10,000 volumes.

A large number of analyses were conducted over a number of days during both dry and rainy weather, but with the exception of dust, results varied but little. This proves that air intakes should be at a sufficient height to eliminate these impurities, or better still, air should be washed and filtered, before distribution.

In mercantile establishments, a permit must be secured from the Commissioner of Labor for the use of basements where women and children are employed. In my opinion no basement or cellar in any building should be permitted for use as a workroom without special permission from the Commissioner of Labor.

#### LIGHT.

Deficient light is an inexcusable sanitary defect. Notwithstanding this, and the fact that sunlight is not only an important factor in the question of ventilation and accidents, but also of disease, there is still an absence of specific legislation regarding the subject.

A perusal of the law shows the following sections relating to windows and lighting:

Section 80 provides, "No door, window or other opening on any floor of any such factory shall be obstructed by stationary metal bars, grating or wire mesh." But this provision is merely intended for the purpose of facilitating egress in cases of need; there is no provision therein prohibiting obstruction to entrance of sunlight. Section 81 provides, "When in the opinion of the Commissioner of Labor it is necessary, the workrooms, halls and stairs leading to workrooms shall be properly lighted, and in cities of the first class if deemed necessary by the Commissioner of Labor, a proper light shall be kept burning by the owner or

lessee in the public hallways near the stairs upon the entrance floor and upon the other floors on every work day in the year, from the time when the building is opened for use in the morning until the time it is closed in the evening, except at times when the influx of natural light shall make artificial light unnecessary." But this section is not specific as to the quality of natural light. Section 84 relates to the cleansing of walls, ceilings, floors, and receptacles. But there is nothing contained therein which requires the cleansing of window panes so that the sunlight which is conducive to the health of the workers may be provided. Section 88 provides merely for the lighting of water-closets, as also does section 94. Section 171 relates to the lighting of basements of mercantile establishments.

From this it may be seen, that there is absolutely no specific provision in the law, relating to the admittance of sunlight into the workrooms. In Norway the "Koenigliche Resolution" provides that window panes shall be cleaned at least every two months. Sunlight is essential to health. Absence of sunlight means danger from disease. Sunlight and health are synonymous. Specific legislation in relation to natural light is necessary for the improvement of hygienic conditions, especially in the congested districts of large cities. Referring to my report for 1909, there was taken up the subject of light obstructed by dirty window panes, partitions, and obstruction by stacked stock, and the use of workrooms having no direct opening to external air. In many of these workrooms I have observed that it becomes necessary to use artificial illumination throughout the entire working day. This would indicate that section 85 which requires no less than 250 cubic feet of air space per person between the hours of 6 a. m. and 6 p. m., is apparently defective in that it permits of a smaller amount of air space per person where the illuminant is a source of rapid vitiation of the air, than when the illuminant used after 6 p. m. is of a non-vitiating character, and 400 cubic feet of air space per person is required.

As a result of the analyses of samples of air taken from various workrooms, it has been proven that where natural means of lighting is insufficient, organic matter and bacteria are high.

I have found that a large number of women and young workers,

especially girls, are employed in basements and cellars where the illumination throughout the entire day is by artificial means. This is true not only in the congested districts of large cities, but also in the urban districts; this has an important bearing not only upon the condition of the eyes of the workers, but also upon the health, being a frequent cause of anaemia. I have also observed, that in many instances where there are ample means for natural lighting, machinery is so placed as to obstruct this light, and thus requires the duties of the worker to be performed in semi-darkness which increases the danger of accidents, notwithstanding the presence of guards. There is no specific legislation as to the proper lighting of such machinery. The German law requires each machine to be individually lighted.

The following table taken from Notter & Firth's Treatise on Hygiene, serves to illustrate to a certain extent, not only the lighting properties, but also the vitiating qualities of the various illuminants.

	Quantity consumed		Candle power	Oxygen removed (cu. ft.)	CO <sub>2</sub> produced (cu. ft.)	Moisture produced (cu. ft.)	Heat calories produced	Viti- ation eq al to adult's
Tallow candles .....	2200	grains	16	10.7	7.3	8.2	1400	12.0
Sperm candles .....	1740	"	16	9.6	6.5	6.5	1137	11.0
Paraffin oil lamp .....	992	"	16	6.2	4.5	3.5	1030	7.5
Kerosene oil lamp .....	909	"	16	5.9	4.1	3.3	1030	7.0
Coal gas:								
No. 5 bat wing burner...	5.5	cu. ft.	16	6.5	2.8	7.3	1194	5.0
Argand burner .....	4.8	"	16	5.8	2.6	6.4	1240	4.3
Regeneration burner .... (Siemens)	3.2	"	32	3.6	1.7	4.2	760	2.8
Welsbach burner .....	3.5	"	50	4.1	1.8	4.7	763	3.0
Electric light .....	3	lb. coal	16	0.0	0.0	0.0	37	0.0

This shows the advantage of the electric light, in that the amount of vitiation is practically nil. The superiority of the incandescent mantle where coal gas is used is also established, for high candle power may be secured with small amount of vitiation.

Referring to the report for 1909, I would again make recommendation for a definite proportion of window space to floor space. While the law provides for artificial lighting, it is not specific as to the character of the illumination. I would therefore recommend that provisions be made requiring artificial illumination of a quality as near sunlight as possible, of sufficient power to thoroughly illuminate all parts of the workroom, and the placing of the same above the heads of the workers when standing.

## TEMPERATURE AND HUMIDITY.

The question of temperature and humidity is of importance, for in order to secure proper compliance with the section of the law relating to ventilation, it is necessary that there be maintained a certain relationship one with the other. In the report for 1909 these questions were discussed at length.

At present we have no legislation regarding maximum or minimum temperature or humidity. Section 86 merely provides that rooms must be ventilated, where excessive heat, steam or vapors are the result of processes of manufacture, but no standards are established. This is of special importance in the application of the section to the textile industry. It is regulated in foreign countries, and Great Britain has as a result of exhaustive investigations by Parliamentary commissions established definite standards. During the present year there has been enacted in Massachusetts, "An Act Relative to Regulating the Humidity and Temperature of the Atmosphere in Textile Factories."

In tenant factories, and especially in those of the converted old dwelling type, many are obliged to labor in chilly workrooms, and of these, a large number are women and young persons. Windows and doors are kept closed, and gas jets lighted to raise the temperature of the room. The result is an increased humidity due to bodily emanations. In many instances the beginning of pulmonary troubles in workers may be directly traced to such conditions. During my visits to workrooms of this character, some of the employees have mentioned cases where young workers have taken a chill, gone home ill, and never recovered. These facts emphasize the need of regulations requiring the maintenance of proper heating and a proper degree of humidity in workrooms.

After extensive investigation, medical authorities have placed upon record the results of a large number of observations in support of the theory that most of the acute diseases of the respiratory organs are caused by a low temperature in conjunction with a low absolute humidity.

The wide variance of temperature and humidity found as a result of Department investigations, is proof that the question deserves careful attention. I would therefore recommend that

the Department be given power to formulate regulations as to temperature and humidity.

#### DUST.

While dust is necessary in the atmosphere in order that we may enjoy the benefits of sunlight and of rain, the presence of an excessive quantity becomes a factor in the causation of disease. Dust is pulverized dirt. From a sanitary standpoint it must be regarded as dangerous, not only because of its physical character, which may result in mechanical irritation of the mucous membranes, but because of the organic matter contained therein, which becomes fertile ground for the development of disease germs. Much ill health, and most of the industrial diseases are caused by the inhalation or swallowing of particles of dust.

In an exhaustive treatise prepared for the United States Bureau of Labor, by Mr. Frederick L. Hoffman, regarding consumption and dust, the following appears:

The tabular analysis of the mortality of persons employed in occupations with exposure to organic dust indicates that the effects of such dust exposure are less serious than the corresponding effects of exposure to metallic and mineral dust, but the consequences to health and life are sufficiently serious to demand most careful attention to the whole problem of dust prevention and removal at the point of origin, in conformity to modern methods of factory sanitation.

During the past fiscal year investigations have been undertaken in the various industries, not only as to the physical, chemical, and biological character of the dust incident to, or generated in the course of the processes of manufacture, but also as to the quantity contained in a confined space. The results have shown that where the dust is of an organic character, ammonia, carbon dioxide, and bacteria were high, as seen in the human hair goods industry. Where the dust is of an inorganic character this was not so apparent, but the danger lay in the sharp irritating particles of dust in the air, as seen in the pearl button industry, and manufacture of mica articles.

The recent amendment to section 81 amply provides for the protection of workers engaged at grinding, polishing, or buffing of baser metals, and where dust is created by machinery, but exempts wet grinding. As a result of observations, wet grinding is

not entirely free from dust, and protection should be afforded by the application of casing and the frequent cleansing of same. During the coming fiscal year it is intended to thoroughly study this condition.

Section 86 provides for ventilation where dust is created in the course of manufacturing processes, but there is no specific requirement as to the use of hoods connected with exhaust fans or the removal of the dust at the point of origin. An exhaust system is the only effective means for the removal of dust. This is applicable to the following industries: Plumbagoing in electrotyping, bronzing in lithographing (hand), shoddy and rag sorting, china scouring in the pottery industry, hair teasing and combing in the human hair goods industry, lead glaze dipping, enameling, the manufacture of electrical accumulators, in dye works, packing of paints and dry colors, book binding, hat blocking and finishing, and the silvering of mirrors.

Among other causes of dust found in the air of factories and tenant factories is the accumulation of dust in corners and under work benches and machinery. Section 84 provides that floors shall be kept clean and sanitary at all times, and in the case of tenant factories, noncompliance with this section may be punished by the application of drastic measures, through enforcement of section 95, but even in this case it is only applicable when articles enumerated under section 100 are manufactured. The provision of section 95 relating to affixing of "labels," should be made applicable to factories as well; and should apply to all articles manufactured.

#### WATER.

The amendment to section 88 relating to pure water for drinking purposes is an important advance toward the betterment of hygienic conditions affecting the workers. It is also of importance in its relation to the problem of public health, for in a majority of the diarrhoeal diseases, and especially in typhoid fever, the germs are water borne, and where there is a suspicion of its presence in a locality, it merely becomes necessary to secure a sample of the water for the purpose of analysis, and investigation may determine the presence of the germs, and so possibly aid in the prevention of an epidemic.

Investigation may also be undertaken as to whether illness attributed to the character of an industry may not be a result of conditions at the source of the water supply, or the character of the vehicle used for transportation or storage of the water.

#### INDUSTRIAL DISEASES.

Notwithstanding the fact that the question of ill health among workers is of great economic importance to the state, the literature of this country bearing upon the subject, shows that very little original thought has been given to the matter, or that intensive work has been undertaken. What has appeared can hardly be said to be of statistical value, being merely the results of clinical observations, or tabulations of mortality statistics.

The question of industrial diseases is so closely connected with the application of labor laws, that in order to properly study the subject, it becomes necessary not only to have an intimate knowledge of such laws, but also to thoroughly study the conditions surrounding the workers during their hours of labor. A study of industrial hygiene is also necessary to impress upon the courts the importance of prosecutions brought for failure to comply with sections of the law relating to factory sanitation.

To accurately study these conditions, it is necessary to have some tangible basis to work upon. This means that a physical examination should be made of the workers, their habits and housing conditions recorded, subsequent examinations made, and then by means of a physical, chemical, and biological investigation, the part definitely played by the industry as a causation of disease may be demonstrated. Through laboratory facilities, connected directly with a clinic, as well as direct inspection of the industries, the Department is fairly well equipped to take up the question of industrial diseases. But, at present, the Department possesses no specific section enabling it to make such examinations of workers, or to obtain data as far as personal habits or housing conditions are concerned. This is absolutely necessary as an aid to the Department in safeguarding the health of workers.

My investigations so far have been directed principally toward determining the part played by the industry as a factor in causing

disease, and the examination of the workers has necessarily been very limited, being confined to oral questions resulting in unsatisfactory answers, and a partial physical examination of persons under sixteen years of age. To properly tabulate results of physical examinations, so that such records may be of accurate statistical value, requires the conscientious assistance of trained medical workers. While I have personally observed a large number of cases in the clinic it was impossible to secure accurate data, owing to the method of history taking. In the industries there has been a reluctance on the part of adult workers to submit to a physical examination.

I have observed a number of workers in the pearl button industry and found them to be suffering from respiratory diseases due to dust; workers in a railway repair shop suffering from a condition directly attributable to poisoning by benzine and turpentine fumes; a number of workers in automobile repair shops suffering from eye conditions directly attributable to gasoline fumes; several workers at rubber goods suffering from the effects of poisoning due to bisulphide of carbon.

As a result of my investigations into particular industries, it would seem that the occupation is not primarily the cause of a disease, but there is a poisoning, or a mechanical irritation resulting from certain conditions incidental to the industry. Industrial diseases is rather a broad term, and in my opinion, as a result of observations, the term industrial poisoning is more appropriate, as the diseases directly attributable to the industries are very limited.

A factor, and probably the specific cause of industrial poisoning, is the contamination of the air by dust, gases, fumes, vapor, etc., generated in the manufacturing processes. These may contain specific toxic material such as lead, copper, arsenic, aniline, cyanide, phosphorus; or they may be irritating in character, as potash, sulphuric acid, nitric acid, chlorine; or they may be of an intoxicating character, as benzine, alcohol, sulphides; or it may be merely the presence of a large quantity of dust not possessing toxic properties, but may contain foci for pathogenic bacteria, as is shown in the investigation into the human hair goods industry, and the pearl button industry.



There are a few industries wherein the conditions may be dangerous to the health of the workers, but which can, under proper regulations be made reasonably safe. This requires, first, a careful study of the industry; secondly, strict enforcement of specific regulations.

#### WOMEN AND CHILDREN.

The question of the employment of women and children is of economic importance to the state, first because the health of the children depends greatly upon the physical condition of the mother, and her ability to nourish and care for her offspring; secondly, the stability of the state depends upon the healthfulness of its citizens. This spells the need of guarding the health of the children, who, eventually, become the support of the state.

There is a close connection between infant mortality and the labor of women, as shown by the results of investigations regarding this subject. The mortality is highest in towns where a large proportion of women are employed in manufacturing enterprises, and among the causes are: (1) industrial labor when injurious to the health of the expectant mother, or through her exposure to various industrial poisons which may affect the vitality of the child; (2) substitution of artificial feeding for breast feeding; (3) neglect.

Notwithstanding this, we have in this state no specific legislation protecting women before or immediately after child birth, nor for protecting the new born child through provisions whereby the mother may properly nourish and care for her infant, if she is obliged to labor. This in my opinion is a question deserving careful consideration, in order that proper protection may be afforded.

In large cities, under the supervision of bureaus of child hygiene, provision is made for the periodic medical inspection of school children, parents are notified and advised as to care of the child, and in certain cases of physical unfitness, the child is sent home. Such data, if made available for Department use, would be of great value as a basis for future investigations.

A thorough physical examination of young workers entering upon their industrial career, as a sequel to the examinations which

took place during their school life, and the issuance of a certificate stating fitness for a definite occupation, would also be of great value. This method is followed in Great Britain.

The Department should be given power to order the dismissal of children who are physically unfit for their present occupations.

#### ST. BARTHOLOMEW'S LABORATORY.

To properly study the subjects relating to sanitation, and especially those closely allied to industrial hygiene, it is necessary that laboratory facilities be available. During the past fiscal year, through the courtesy of the Rector and Vicar of St. Bartholomew's Parish, and the Board of Directors of St. Bartholomew's Clinic, there has been temporarily placed at the disposal of the Department, a laboratory of modern construction and fairly well equipped with modern scientific appliances for analytical and microscopical work. Excepting for outlay for some chemical apparatus and chemicals, the Department has been under no expense for maintenance, lighting, heating, or electrical power of this laboratory. The Department has also been favored with the gratuitous services of Prof. E. E. Smith, M.D., of Fordham University, William Wilson, M.D., House Physician of the Clinic, and Miss E. W. Wettingfeld, Ph.B., biologist.

Through these laboratory facilities, work of great value has been made possible, not only to the Department, but to the scientific world. The need of such laboratory facilities was manifested in one case of prosecution. In this instance not only were samples of air secured for the purpose of making a complete chemical analysis, as well as a bacteriological determination, but also, analyses were made of samples of street air for accurate comparative purposes. The wisdom of this procedure became apparent. When the case came to trial, the defense introduced an expert chemist who based his testimony upon evidence secured as a result of laboratory deductions.

Labor laws are intended for the protection of the health of the worker, but in order to apply remedial measures it becomes necessary to ascertain the specific cause so that the safeguard may be absolutely certain. This means then, not only an examination of conditions surrounding him, but also, in the majority of cases, it

requires a thorough chemical and physical analysis of certain factors directly influencing his health, the principal one being the atmospheric conditions.

The intensive value of the laboratory lies in its application to the question of conditions affecting the health of the workers, which may cause at first a poisoning, and ultimately may result in disease. Even though the investigators have had special training in sanitary, chemical, or medical science, without the aid of a properly equipped laboratory for scientific analysis, it would be utterly impossible to prove the presence of those things which tend to affect the health of the workers.

With the object in view then of determining, what specific conditions of the atmosphere would be liable to affect the health of the workers, not merely from laboratory experiments, but in a practical manner, some time was devoted to formulating methods for this purpose. Despite the fact that the literature relating to chemical analysis, as applied to sanitary science from a laboratory experimental standpoint, was voluminous, there was practically nothing of any value applicable to active work in the field, *i. e.*, in factories, mercantile establishments, etc. It therefore became necessary to test or to utilize laboratory experiments for practical purposes, and when found insufficient to devise new methods. In this undertaking, the work of Deputy Factory Inspector Vogt is commendable; his special training in the field of sanitary chemistry was of aid in perfecting the methods now used by us. This undoubtedly is the pioneer undertaking in field work in this country.

It is true that the physical condition of the worker as well as the character of the work itself, *i. e.*, the position required, tedious nature, etc., are factors to be considered in studying the worker's health. The results of observation visits made to various industries together with laboratory investigations show that another probable cause of illness is the contaminations present in the air, either from the processes of manufacture, or from the products of respiration and combustion. This fact is corroborated by all investigators in the field of industrial hygiene. It was decided, therefore, to study the question through analysis of the atmospheric conditions surrounding the workers.

From physiological research, it is known that certain excretia are thrown off from the body in large quantities when excessive labor is performed, and that these substances when thrown into the air, vitiate it to such an extent as to cause not only poisoning but sometimes death. To definitely determine the presence of these deleterious products it became necessary to work out certain methods and standards for which purpose laboratory facilities are required. Such work was undertaken, and the results are shown in the tables with this report as (1) determination of ammonia, (2) oxidizable organic matter (this term, used by Prof. Bergey in his researches into atmospheric impurities for the Smithsonian Institute, is probably the best term that can be used in this connection). The presence of dust in the air surrounding the worker irrespective of its character was tabulated under total solids, and calculated as grams per million litres of aspirated air (each gram is equal to 15 grains, and each litre is equal to about 55 cubic inches). Methods have been perfected for determining the presence of organic and inorganic impurities in the air. The presence of methyl (wood) alcohol and amyl alcohol in the air of work-rooms, has been definitely determined.

Through our laboratory investigations, though to a certain extent limited, it has been proven that where organic matter is high, ammonia is high, and a large number of bacteria are present. In this connection the following analyses of outdoor air are interesting. In all cases 100 litres of air were aspirated.

(1) Sample taken at the street level after the street had been swept; the day was clear and a strong wind was blowing:

Ammonia.....	3 parts per million.
Total solids .....	114 grams per million litres.
Oxidizable organic matter.....	12 grams per million litres.
Bacteria .....	12 per litre.
Moulds .....	none.
Carbon dioxide.....	4 parts in 10,000 volumes.

Microscopic examination of the solid matter showed horse manure, quartz, sand, and a dark substance probably asphalt or cinders.

(2) Sample taken about fifty feet above the street level; the day was cloudy, and a strong breeze was blowing:

Ammonia.....	1 part per million.
Total solids .....	22 grams per million litres.
Oxidizable organic matter.....	5 grams per million litres.
Bacteria .....	9 per litre.
Moulds .....	4 per litre.
Carbon dioxide.....	3 parts in 10,000 volumes.

Microscopic examination of the solid matter showed horse manure, horse hair, human hair, and sand.

(3) Sample taken about fifty feet above the street level; the day was clear with a very slight breeze blowing:

Ammonia.....	less than 0.5 parts per million.
Total solids .....	7 grams per million litres.
Oxidizable organic matter.....	0.51 grams per million litres.
Bacteria .....	2 per litre.
Moulds .....	none.
Carbon dioxide.....	3 parts in 10,000 volumes.
Microscopic examination of the solid matter showed wool, cotton, and sand.	

Through analytical means the dangers of the human-hair goods were demonstrated. For there was found in the air of these establishments, a large quantity of dust containing particles of hair, which accounted for the high percentage of organic matter, high proportion of ammonia, high percentage of carbon dioxide; also pathogenic, and pyogenic (pus producing) bacteria, the presence of the latter meaning liability to sepsis (blood poisoning) should workers have cuts or abrasions on the hands or upon exposed portions of the body. In one sample of air from a human-hair goods place, there was found what appeared to be the bacteria of bubonic plague, but owing to the very limited facilities, this germ could not be definitely isolated. As a result of infusion in distilled water of one small hair secured from an unclean human-hair goods place, 550 bacteria were found. In the match industry, analysis of samples showed large quantities of phosphorous pentoxide in the air, and this despite the fact that windows were wide open at time sample was secured, and in one place, a combined plenum heating and ventilating system was in operation. It was found as a result of analysis, that large quantities of dust were contained in the air in the immediate vicinity of wet drilling and grinding machines used in the pearl button industry. This is proof that some remedy is necessary. An examination of a sample of air taken from a knitting room showed the presence of particles of wool, cotton, skin, and mucous membrane (such as is found lining the nose and throat). In a large cotton mill, clean in character, large quantities of cotton, and quite a few bacteria were found upon analysis of samples of air taken from the various rooms. In a sample of air obtained during working hours in a brass goods manufactory situated in a tenant-factory building, and where the buffing wheels were unconnected with an exhaust system, copper was found to be present. Analysis of samples of air secured in a plant devoted to manufacturing mica goods, showed the presence

of wood alcohol, and minute particles of mica in the air. The workers here were principally young women.

The results thus obtained are of special value not only as an aid in bettering hygienic conditions, but also in the event of prosecutions becoming necessary for failure to comply with the sections of the law relating to sanitary conditions.

This is conclusive proof of the necessity for such a laboratory, and I would therefore respectfully recommend that an appropriation be made for the continuation of this valuable adjunct to the Department.

Respectfully submitted,  
(Signed) C. T. GRAHAM-ROGERS,  
*Medical Inspector of Factories.*

#### REPORTS OF SPECIAL INVESTIGATIONS.

##### I. PHOSPHORUS MATCHES.

Of the many industries wherein the destructive effects upon the health of the workers may be directly traced to the process of manufacture, that of the white phosphorus match industry stands foremost.

Notwithstanding the fact that the action of the white phosphorus used in the process is very destructive to all tissues, and results in a permanent disability, the greater number of workers engaged are women and children, many being girls under sixteen years of age.

While the investigation deals entirely with the white phosphorus match, that being the kind manufactured in this State, it may be of interest to know that there are three varieties of matches manufactured, namely:

(1) The so-called "parlor match" or ordinary friction or sulphur match; the head of this is composed of a mixture consisting of different proportions of white (also known as yellow) phosphorus, manganese dioxide, glue, and a little coloring matter. Potassium chlorate may be used instead of manganese as the oxidizing agent. By rubbing these matches on a rough surface enough heat is generated to cause the phosphorus to unite with the oxygen of the oxidizing agent, and the heat produced sets fire to the paraffin, and so lights the wooden stick. The phosphorus used in this variety of match is not only a most irritating local poison, but when brought in contact with the tissues externally, results in most painful burns. It is this variety of match which is manufactured in this State.

(2) The "safety match"; this variety contains no white phosphorus. The head of this kind is made of substances highly oxidizable (readily igniting), and is usually a colored mixture of antimony sulphide, potassium chlorate and glue; while the surface upon which the match must be rubbed to be lighted is coated with a mixture of red phosphorus, glue, and powdered glass. The red, or amorphous phosphorus used in this kind of match is non-poisonous.

(3) The "safety strike anywhere match" is like the parlor match, but the head is made from a mixture containing sesquisulphide of phosphorus, which is also nonpoisonous. A few large manufacturers hold the exclusive rights to the use of this variety of phosphorus.

The history of the phosphorus or lucifer match industry dates back to 1835, Vienna being the early center of the industry, but as wood became scarce, the industry was transferred to those countries rich in timberland.

The number of persons engaged in the phosphorus match industry may be seen in the following table which was compiled by Dr. Teleky an Austrian investigator, and is quoted by Dr. Oliver.

	Number of employees.
Japan . . . . .	21,400
Russia . . . . .	15,668
Italy . . . . .	6,700
Sweden . . . . .	5,655
Germany . . . . .	4,815
Austria . . . . .	4,611
Great Britain . . . . .	4,150
Hungary . . . . .	2,173

According to the United States Census Report on Manufactures, 1905, Part 1, there are 3,185 work people engaged in the match industry, while the result of my investigation shows about 600 workpeople in the state of New York engaged in this industry, over half of whom are females.

The dangerous nature of the industry as affecting the health of those engaged in the manufacture, was not recognized until Dr. Lorinser of Vienna reported in 1838 a case of phosphorus necrosis in a worker. Later on other cases were reported by medical men, and the Austrian government appointed a commission to enquire into the conditions of the work.

From the time of first making matches, the workers engaged in this industry have suffered from the results of phosphorus poisoning, and the foreign governments have at various times appointed commissions to investigate and report upon remedial measures. Independent investigations were undertaken by societies and scientists, and the result was an unanimous agreement upon the recommending of legislation prohibiting the use of white or yellow phosphorus in the industry.

The destructive pathological effect of white phosphorus has been fully established by the careful scientific investigations undertaken by the members of the various governmental commissions and scientists; the reports of Drs. Thorpe, Oliver, and Cunningham of the British commission, Dr. Glibert, Medical Inspector of Factories of Belgium, the Committee on Industrial Poisons of France, and Dr. Teleky of Austria, are of special interest as bearing upon the phosphorus match industry.

In this state there are but two factories where matches are made, and it was deemed inadvisable to undertake an investigation into the industry until the Department was in possession of means to definitely and scientifically establish the presence of the dangerous nature of the industry to which the workers were exposed. During the year the Department was enabled to enjoy laboratory facilities, thus making a thorough investigation possible.

While the processes through which the wood passes from the timber to

the finished product are many, it is the purpose of the report to deal mainly with the actual processes wherein the workers come in contact with, or are exposed to, the phosphorus, or paste, or their fumes.

#### PROCESS OF MANUFACTURE.

After the blocks of timber are brought to the factory, one of the steps in the making of the match is the veneering of the wood, and cutting the veneer into splinters. This portion of the industry is a process usually entirely separated from the actual making of the match, and has not been taken up in the investigation.

The operatives in this portion of the industry are in no danger from phosphorus poisoning except in those cases where such rooms are connected directly with rooms in which the phosphorus is used, which permits of the fumes gaining access; but even then, the danger is minimized, as the air space is usually ample, doors and windows usually open all year around, and the machinery when in motion acts as a sort of mechanical means to keep air in constant motion. Such a condition exists in but one factory.

After the wood has been veneered and splintered, the splints, as they are called, are put into a rumble to make them smooth, they are then taken to the machines, and forced into a perforated iron frame, which moves along the match machine on a chain traveller, in such a manner as to leave the greater portion of the splint exposed.

The match machine is an iron frame work with an endless chain traveller to hold the perforated frames, and contains a trough filled with paraffin, which is kept in a liquid state by heat, and a trough or rollers containing the phosphorus mixture. The machines vary in size from the old type, which is about twenty feet long and ten high, to the automatic machines sometimes twice the size of the small ones. As a rule, only males are employed to look after the various parts of the machine.

In the old type machine, the frame containing the splints moves along on the traveller, and the splints are first entirely immersed in the paraffin trough. The frame again moves along, and just the tip of the splint is dipped into the phosphorus mixture; sometimes the tip is first dipped into a mixture of potassium chlorate for the purpose of causing quick ignition, and then into phosphorus paste. The "green" match is dried, then taken to a large table where imperfect matches are sorted out, and the others are packed into boxes and wrapped into bundles. In this portion of the industry the workers are women and girls.

The modern machines are the so-called "automatic." Splints are automatically packed into the frames which move along on the traveller, the splints are first dipped into paraffin, then the head of the splint is tipped with the phosphorus paste, and for the purpose of quick drying, the splints, or (as they are now finished) matches are exposed to a dry air blast while in transit. At the end of the machine, the finished match is ejected automatically into boxes which move along on a web belting and this traveller carries the boxes to a circular table alongside the machine; here young women straighten out the boxes, sort out imperfect matches, and put the covers on the boxes. The boxes are now slid down to a lower table alongside of the machine, and children (girls) wrap them into bundles, and paste on labels.



The phosphorus paste into which the head of the match is dipped is made in a room known as the mixing room. It is separated from the dipping room, and only adult males, as a rule, are employed. In this room the phosphorus is kept in tanks of water, for if it were not kept completely submerged, it would burn up. The proportion of phosphorus varies in different pastes. In modern plants the paste mixing is done in vessels which are hooded and connected with exhaust fans.

#### DANGERS IN THE PROCESS.

The principal danger in the industry is from the action of the white phosphorus used in the paste. There is danger not only in the handling of the phosphorus, but also from absorption in handling the finished product. Working in rooms where the process of mixing or dipping is carried on, and the fumes from the phosphorus mixtures impregnate the air, is also a source of danger. Workers in rooms adjoining such rooms are also exposed to this danger. Proof of the presence of dangerous impurities is shown by the results of analysis of samples of air secured from such rooms (see table appended to this report).

Phosphorus is colorless and transparent, but after being exposed to light, and acted upon, becomes yellowish and shining like wax, and is luminous in the air. It is absorbed through breathing air filled with the fumes, usually in the form of an oxide, or through the mucous membranes of the mouth and digestive tract, due to uncleanness of workers who come into contact with the phosphorus paste or the finished product.

The poisoning results in a destruction of the bones of the face, principally the upper and lower jaws, and is known as phosphorus necrosis, commonly called "phossy jaw." Many authorities claim this condition results from the poison entering through the presence of dental caries (holes in the teeth), but other authorities claim the presence of carious teeth are not at all necessary. Swelling and ulcers of the gums and mucous membrane (inner lining) of cheeks also takes place. The person affected becomes anaemic (pale), emaciated, and may also suffer from intestinal, liver, kidney, and nerve affections.

According to Dr. Oliver, French physicians describe a general morbid condition of the body, or a cachexia, found principally in female workers; there is anaemia, gastritis, and a tendency to bronchitis. They call this condition "phosphorisme." My interrogation of many workers brought forth the answer that they suffered from nausea and gastritis upon first starting to work in the industry, which seems to corroborate the findings of the French physicians.

Those who are most directly exposed to danger are the workers engaged in the dipping and packing room, as they spend the greater part of the working day in close proximity to, or directly over the phosphorus mixture. In the factories visited, the majority of these workers were found to be females, mostly young women, and a large number under sixteen years of age.

Prof. Thorpe of the British Commission reports finding .02 milligrams of phosphorus per 100 litres of air, in a sample of air secured from a dipping

room, while in the boxing room he found .12 milligrams. In an analysis of water in which twenty-two workers had washed their hands after ten hours work, he found 37.3 milligrams of phosphorus.

In the analyses made by the Department, there were found as high as 1.1 milligrams of phosphorus per 100 litres of air, in a very large dipping room equipped with a ventilating system, and with windows all open. In another dipping room in the same building .81 milligrams were found. In this room, the roof was about twenty feet from the floor, and fitted the entire length with large louver windows; a ventilating system was also in operation, and all windows open. The majority of the workers in these rooms were women and girls, many under sixteen years of age. In the mixing room of the same establishment, only .61 milligrams of phosphorus was found; this is probably due to the fact that all the vessels in which mixing is done are covered by hoods connected to a powerful exhaust fan. Only adult males are permitted in this room.

In another plant analyses of air taken from dipping and packing room showed .28 milligrams of phosphorus per 100 litres of air, and in an adjoining dipping room .2 milligrams of phosphorus. A sample of air was taken from the paper box making department which was situated over the dipping room, and results showed .09 milligrams of phosphorus. In this plant, open windows were relied upon for means of ventilation, and as the samples were taken on a cool breezy day in summer, with all windows and doors open, and part of the machinery idle, it is fair to suppose that in cold weather analyses would have shown a higher proportion of phosphorus present in the air. It may also be that the small percentage found is due to the fact that a smaller amount of phosphorus is used in the paste.

These results, as compared with the findings of Prof. Thorpe, tend to show a worse condition of affairs here than in the British factory reported upon. But as the exact conditions under which Prof. Thorpe secured his samples for analysis are not fully indicated, it is rather difficult to properly compare the results of the Department's findings. Nevertheless, it emphasizes the fact that there is a dangerous side to the industry which requires a remedy in order that the health of the workers, especially that of the women and children may be preserved.

Referring to the tables at the close of this report, it is very noticeable that the proportion of organic matter is high, as much as 36 grams per million litres of air being found, and of the total solids (dust) as high as 440 grams. In another plant the amount of organic matter found was 1.4 grams per million litres, and total solids 80 grams. This organic matter and solids are probably the result of smoke from matches and paraffin, and the small amount found in the one plant is probably due to the fact that there was but one small machine in each room, and that not constantly operating.

With the exception of a few isolated cases reported many years ago, we have no authentic data as to illness attributable to the industry in this state. The managers of the factories claim there are no evident cases of poisoning, but that is no proof of safety. The results of accurate statistics secured in those countries where medical and dental examinations are required, and the many cases of poisoning reported, clearly show there is danger. The results of the Department's investigation prove conclusively the

presence of the dangerous element, and there is no doubt that sufficient proof of the evil effects upon the workers in this state would be established, were the reporting of cases of poisoning required by law.

None of the workers in this industry present a healthful appearance, and all the children examined, especially those who had been employed some time, were anaemic, and many suffered from acne (pimples). The work is carried on in an atmosphere which is filled not only with the fumes from the phosphorus mixture, but also smoke from the paraffin trough, and quite often, smoke and fumes from the burning matches which ignite during the process of packing. An added danger is that of burns from the matches taking fire, not only on the packing tables, but on the floor, where they are scattered about, and light when walked upon.

The claim is made that the children are in no danger because they merely wrap up the filled boxes. This is not true. As long as the children are required to work where there is exposure to the fumes of phosphorus, or dust incidental to the dipping, the danger of absorption is just as grave as though handling the paste. In Japan, no person under sixteen years of age is permitted to work in the match industry.

#### PREVENTIVE MEASURES.

Notwithstanding the fact that the results of all investigations have proven the industry to be a most dangerous one, there is no doubt that the danger can be minimized by taking proper precautions. The principal safeguards are proper ventilation of machines and workrooms, and extreme cleanliness on the part of the workers. The best preventive is the prohibition of the use of white phosphorus in the process of manufacture.

The mere installation of a ventilating system is not sufficient to insure safety to the workers, and this has been demonstrated by the results of the Department's investigation and analyses. It is necessary that the phosphorus fumes be removed directly from the point of origin, and away from the workers. To do this it is necessary that the machines be properly hooded, with piping connected to an exhaust fan of sufficient power to draw off the fumes and smoke. This is a perfectly practicable method, and its efficacy has been demonstrated by the installation of such devices in the British match factories. The packing tables should also be provided with hoods connected to exhaust fans.

Despite the exercise of care in keeping a factory clean, particles adhere to the clothes, as well as to the hair and exposed portions of the bodies of the workers in rooms where phosphorus paste is used, and as a rule, very little attention is given to this condition. In none of the factories visited was any special covering for body or heads of workers provided. This is of importance, for while they may wash the hands and face before leaving after the day's work, the danger has not been entirely avoided. Few of the workers realize the dangerous nature of the industry, or the action of the phosphorus as a poison; though in one plant, notices in various languages are posted in the various rooms, calling attention to the fact.

In one factory visited, precautions were taken to minimize the danger as much as possible. Lunch rooms, cloak rooms, and lavatories were provided, and cleanliness enjoined upon the workers, but the enforcement of

regulations was not rigid. About every three months dental examinations were made by the dentist, but there was no provision for medical examinations. This is in marked contrast to another factory where absolutely nothing was done to safeguard the health of the workers, or inform them of the dangers incidental to the processes.

From the results of the investigation it is apparent that the only solution to the problem for the prevention of industrial poisoning of workers engaged in this process, is a prohibition of the use of white phosphorus, and as all countries where regulations have been in force, unanimously agree in reporting that phosphorus necrosis occurs wherever white phosphorus is used, despite rigid laws covering its use, I would therefore respectfully recommend the prohibition of the use of white phosphorus in the manufacture of matches in this state.

That matches can be profitably made from the non-poisonous phosphorus is an established fact, and the manager of a large factory personally corroborated the fact. Competition, however, is so keen, that unless the prohibition of white phosphorus in the industry is made universal, the manufacturer who uses the nonpoisonous variety may suffer financial loss. In this state the nonpoisonous phosphorus match has been made with some success, but its manufacture was discontinued for financial reasons.

#### OBSERVED CONDITIONS IN PLANTS VISITED.

The following is a brief description of the factories visited in this state. Temperature and humidity readings were taken, and analysis of air was made for carbon dioxide, oxidizable organic matter, total solids (dust), and phosphorus, which in the air exists in the form of an oxide. The results of these readings and analysis are presented in the table at the end of this report. The marked difference in the findings in the two plants is due to the fact that one factory is very small, machines were not constantly in operation, and analyses were made in summer. The other is a very large factory, a very large number of machines were in operation constantly, and analyses were made in cold weather.

Wherever it was possible, physical records of workers under sixteen years of age were secured.

#### PLANT NO. 1.

This is a small factory employing about sixty people, and situated in the open country. A portion of the building consists of two stories. Upon the first floor are situated the wood veneering and splinter-making department, mixing room, dipping room, and dipping and packing room. The rooms are all connected by means of open arches.

*Mixing room.* This is a very small room separated from the other rooms, but with open doors. There are only one or two male adults employed in this room, who are constantly coming and going.

*Dipping room.* This is a small light room with plenty of windows and doors, having one small old-type dipping machine situated near the windows. There was a marked odor of phosphorus, ozone, and paraffin. All workers are males. An analysis of the air showed .2 grams of phosphorus per million litres of air. This room was not very clean.

*Dipping and packing room.* This is a large light room, with one small old-type dipping machine situated near windows. The majority of the workers were young women, and in the busy season girls under sixteen years of age are also employed. Males attend the dipping machine, and the finished product is brought to a large table where it is sorted and packed, and wrapped by females. The odor of phosphorus, ozone, and paraffin in this room was quite noticeable. Matches were constantly taking fire on table during process of packing, and large numbers were scattered about the floor, taking fire when walked upon. An analysis of the air in this room showed .28 grams of phosphorus per million litres. Cleanliness was not strictly observed.

*Paper box making.* This room is situated directly over the dipping and packing room. A few males and females were employed. Room was spacious and light, with a number of windows on each side. An analysis of the air showed .09 grams of phosphorus per million litres.

In this factory, doors and windows were the only means for ventilation relied upon, and no special mechanical means were provided for removal of fumes or smoke. No special precautions were observed whereby the workers' health might be protected from the poisonous effects of the white phosphorus, either through furnishing proper coverings for keeping the clothes from becoming soiled, or through providing adequate means for proper washing of hands and face after finishing the day's work. No notices were posted as to the dangerous nature of the industry, or precautionary measures to be observed, and the question of the worker's physical fitness was totally ignored. All information as to illness or poisoning among the workers was in the negative.

#### PLANT NO. 2.

This is a large factory employing over 500 people. It consists of a main building with wings; the buildings are four story brick structures. This factory is situated in the open and close to a lake. A portion of the second floor, and the entire fourth floor are devoted to dipping and packing matches. The mixing room is also situated on the fourth floor.

The system used for heating and ventilating the buildings is a combined plenum method, i. e. the fresh air supplied to the various rooms consists of cold and warm air which is mixed upon entering room. A twelve-foot blower fan supplied the power; there is also a dry air blast at each dipping machine.

*Mixing room.* This is a large light room situated in a wing, on the fourth floor; the ceiling is very high, and windows are numerous. The mixing is done in ten vessels each under a hood connected by piping to a forty-two inch exhaust fan; there are also three monitors in the roof to aid in ventilating. Only males are employed in this room. An analysis of the air showed .61 grams of phosphorus per million litres of air.

*Dipping and packing rooms, fourth floor.* These are three rooms connected by open arches; the ceiling is very high (gable), and running the entire length of the roof are louvered windows; the rooms are spacious, light, and windows are numerous. On this floor there are seventeen large modern automatic machines; males attend the machines, and all the rest of the workers

are females, many being under sixteen years of age. All work is performed on tables situated alongside of the dipping machines. Floors are kept clear of matches by constant sweeping. The odor of phosphorus and paraffin was very noticeable, and often quite a little smoke and fumes from the matches taking fire at the packing tables. Samples of air were taken at the wrapping tables with the following results:

Dipping room A.....	0.81 grams of phosphorus per million litres
Dipping room B.....	0.74 grams of phosphorus per million litres
Dipping room C.....	0.8 grams of phosphorus per million litres

*Dipping and packing rooms, second floor.* These rooms occupy two sections of the floor and are connected by open arches; rooms are spacious, light, and with numerous windows; there were twelve machines of same type as on the fourth floor, and the character of the work being performed was the same. Only a few males are employed, and of the large number of females at work, many were under sixteen years of age. The odor of phosphorus and paraffin was strong, and the smoke from matches taking fire at packing tables was at times very marked. The floors are kept clean. An analysis of samples of air taken at wrapping tables showed 1.1 grams of phosphorus per million litres of air.

In none of the dipping and packing rooms were any exhaust systems installed for the removal of fumes and smoke. It was noticed in this factory that some precautionary measures were observed in an endeavor to safeguard the health of the workers. A company dentist visits the factory about every three months for the purpose of examining the workers, and it is required that they undergo examination, and comply with the dental requirements in order to continue employment. Food is not permitted in the workrooms, even the use of chewing gum being forbidden. A lunch room is provided for the employees. Washing facilities are ample, and employees are required to wash up before eating, and before leaving for home after the day's work is finished. The following notice, printed in English, German, French, Italian, Russian, Polish, Spanish, Hungarian and Greek, is posted in conspicuous parts of the various work rooms:

To the Employees of the ..... Company.

There are risks connected with the use of Yellow Phosphorus in the manufacture of matches, and in order to avoid them, and the possibility of contracting a painful and serious disease of the jaw bone, the following rules must be strictly observed by all employees of the ..... Co.:

(1) Do not handle food, gum or tobacco, or bring hands in contact with the mouth while at work.

(2) Wash hands thoroughly before eating, and rinse the mouth and teeth after eating.

(3) Brush teeth at least once daily, with good castile soap, or tooth powder.

(4) All dental work required to be done by the Company's dental examiner, must be performed as directed, or employee will not be permitted to continue work.

(5) Employees must immediately report to foreman any pain or tenderness of teeth or gums, and dental work must be performed without delay.

(6) Employees must notify foreman before any tooth is extracted.

(7) When dental work has been done, a certificate furnished by the Company, and filled in and signed by the dentist doing the work, must be handed to the foreman before employee may return to work.

All information as to illness or poisoning among the workers in this factory was in the negative.

## REGULATIONS NEEDED.

The result of the Department's investigation proves the dangerous nature of this industry, and it is very evident, that to properly safeguard the health of the workers engaged therein, it becomes necessary to formulate special regulations applicable to this particular industry. This has been the method of procedure in foreign countries. The use of white phosphorus in the match industry is prohibited by France, Italy, Denmark, Germany, Switzerland, Great Britain, and Luxembourg. Women and children are prohibited from being employed in match factories in Netherlands and Belgium. Workers under sixteen years of age are not permitted in Japan. In the majority of the countries, dental and medical examinations are required, and overalls must be provided.

I venture to recommend the formulation of regulations along the following lines.

## REGULATIONS FOR EMPLOYER.

No female under 21 years of age, or male under 18 years shall be permitted to work in connection with any process where paste is used containing white phosphorus.

There should be an attending dentist connected with each factory who should examine the workers at least every three months; there should also be a medical examination at least every six months, a register to be kept of all such examinations. No person should be employed in process where white phosphorus is used without producing a medical and dental certificate of fitness, same to be obtained not more than fifteen days after being employed. A complete record, accessible to the Department, shall be kept of results of all medical and dental examinations. All cases of illness, or pain in teeth or jaws, shall be immediately seen to by a physician or dentist, and if the result, directly or indirectly, of the industry, must be reported to the Department. No person shall be re-employed after illness without a medical and dental certificate.

Overalls should be provided for males, and aprons and head coverings for females employed in the industry. They shall be kept at the end of the day's work in a suitable place set apart for this purpose; such coverings shall be washed once a week. A room free from damp or dust should be provided, where workers may deposit clothes removed during working hours. A sufficient supply of wash basins with running hot and cold water, soap and hand brushes should be provided. Time should be allowed for washing up before meals, and before leaving the works. A sufficient supply of alkaline antiseptic mouth wash shall be supplied, and each worker shall have their own glass or cup. No person should be permitted to bring into, prepare or partake of any food or drink, or to remain during meal times, in any of the rooms where the phosphorus processes are carried on. A suitable lunch room should be provided.

Mixing rooms, dipping rooms, and packing rooms should be separated from other rooms by brick partitions, and doors kept tightly closed by means of spring or weights. Mixing must be done in vessels kept tightly closed by means of hoods connected with exhaust fans. Vessels containing phosphorus paste should, when not actually in use, be kept closed by

tightly fitting covers, or damp flannels. Dipping and packing should be done under hoods connected with efficient exhaust fans. Loose matches should be kept under hoods connected with exhaust fans.

All floors should be of such material as to make possible the removal of dust by moist method, and should be wet-cleansed at least once daily. Walls and windows should be cleansed at least once every two weeks. Only adult males should be employed to do such cleansing.

Notices regarding danger of poisoning from materials, symptoms, and preventive measures to be observed, should be printed in the various languages of workers, and posted in each room and dressing room.

#### REGULATIONS FOR EMPLOYEES.

Extreme cleanliness should be observed; care should be taken not to handle food, or bring hands in contact with the mouth while at work. Wash up thoroughly before eating or leaving after work. Rinse mouth thoroughly with gargle before and after eating. All workers, when at work, should wear covering provided for clothes and head, which should not be worn outside the works, or removed therefrom. No food or drink should be brought into the workrooms; meals should be eaten only in a room provided for that purpose. Immediately report to physician or dentist any pain or tenderness of teeth or gums. Workers should make use of such safeguards as may be provided by the employer for the prevention of injury, and no worker should in any way interfere with the means and appliances for ventilating or removing dust, fumes or smoke. None but male adults should do any cleansing of floors or walls. Workers should ascertain the dangerous nature of the work, and familiarize themselves with the preventive measures.

C. T. GRAHAM-ROGERS,

*Medical Inspector of Factories.*

## II. PEARL BUTTONS

Industries wherein large quantities of dust are generated during the processes of manufacture are inimical to the health of the workers employed therein, and the tables of mortality statistics show that the deaths from consumption are very much greater among persons engaged in dusty occupations than among those engaged in non-dusty occupations. Among the so-called dusty trades, that of mother-of-pearl working, or pearl button making is considered one of the most dangerous.

New York State is considered as one of the centers for the manufacture of fresh water pearl buttons. The majority of the workers employed in this industry are women and children; a large number of the children are under 16 years of age.

In view of the dangerous nature of this industry, it was decided to make it the subject of a special investigation, with a view toward studying the dusty nature of the industry.

Through the discovery in the Mississippi river of fresh water mollusks which were found to be admirably adapted to the use of buttonmaking, the industry in this country assumed some importance. Before this discovery,



the raw material originally came from China, Ceylon, and the Mediterranean sea. Owing to the scarcity and high price of the East Indian shells, they are only used for ornaments, novelties, and the most expensive buttons.

#### PROCESS OF MANUFACTURE.

Upon reaching the factory, the pearl shells are immediately put to soak in water for about a week, in order to render them less brittle, as the dry shells are apt to disintegrate when cut by the saws. The processes through which the shell passes are numerous, and the finished button is the result of a large amount of drilling, grinding, and polishing, whether by hand work or machinery.

*Sawing.* The wet shell is sawed into sizes convenient for cutting out blanks from it, and calculated so as to leave as little waste material as possible. The sawing is done by means of a circular saw driven by motive power. During the process small splinters of the shell fly about endangering the eyes of the workers. In the modern factories, each saw is equipped with a glass shield to prevent the splinters from flying into the eyes of the operators, and as an additional protection some workers wear eye protectors. The sawyers are adult males.

*Cutting.* After the shells have been sawed into sections, the circular blanks or discs for the buttons are then cut out from these sections. In the use of fresh water shells, the discs are cut directly from the shells. The cutting process is a wet one and is done in a lathe. The drill is a hollow cylinder provided with teeth at its boring edge, which are forced through the shell; the disc, as it is cut out, passes through the hollow drill and drops into a receiver. The operator is obliged to force the shell against the drill either with pliers or his bare hands. The cutters are all adult males.

*Splitting.* The blanks or discs are now split into the desired thickness, according to the character of the button required. This work is usually done by hand, the workers being adult males.

*Planing, grinding, facing, backing, doming.* These are all processes in which the disc is subjected to the action of emery wheels for the purpose of leveling and smoothing the face and back of the button, and imparting to the button a rounded form. These processes are generally included in the terms turning and finishing. In the majority of the small factories, there is a separate lathe or grinder for each process. In the modern factories, many of the processes are completed automatically in one machine. Large numbers of young women are engaged in these processes.

*Drilling.* The discs are now placed in lathes or drilling machines, and holes are bored through them. The operators of these machines are mostly women and young persons. The ornamental or fancy form of button is secured through subjecting the disc to the action of various shaped drills and grinders. The discs after being drilled, are finished buttons ready for polishing.

*Polishing.* After passing through the various drills and lathes, the buttons are put into a rumble (which is a revolving cask) together with rotten stone and a hydrochloric acid solution, in order that the buttons may acquire a polish, and so bring out the original pearly luster. The workers in this process are all males.

*Carding.* After polishing, the buttons are sorted, counted, and sewed on cards. A greater part of the workers engaged in this part of the work are under sixteen years of age. Many of the large factories have the carding done by home workers.

#### DANGERS IN THE PROCESS.

Throughout the entire process, dust is necessarily created. It is the waste product of the industry, and to many manufacturers presents a serious problem; for in the large cities, it is necessary to pay for its disposal, and, as a rule, large quantities accumulate daily. It is evident, then, that conditions in the industry are not hygienic in character. Upon entering a pearl button factory, the impression first received is the suffocating character of the dust, and the peculiar organic odor present, thus giving a physical demonstration of the unhealthful character of the industry.

The danger is due entirely to the dust created in the course of manufacturing. This dust is of a creamy white color, very light, and composed of small grains, excessively thin, which under the microscope appear as sharpened-edged crystals; it gives to the touch a rough and gritty sensation. Dr. B. W. Richardson in a lecture delivered in 1876 said:

Guggenbauer and Klauser have made an analysis of the three different layers of which the pearl shell is composed. The most internal layer is the one used by the mother-of-pearl turners. It contains of organic matter insoluble in water 5.57 per cent., of organic matter soluble in water 0.11 per cent., of water 0.47 per cent., of carbonate of lime 93.555 per cent., and of alkaline salts 0.295 per cent.

An analysis of a pearl shell obtained in a New York City factory was found to be of the following composition:

Calcium carbonate (lime).....	55.60%
Carbon dioxide .....	39.50%
Ferric oxide .....	Trace
Magnesium oxide .....	Trace
Silicon dioxide (silica).....	Trace
Phosphate .....	Trace
Moisture .....	0.67%

The presence of the animal organic matter entering into the composition of the shell, is the cause of the odor peculiar to the industry.

The attention of many investigators has been attracted to the conditions in this industry, and as far back as 1832, C. Turner Thachrah, in "Effects of Arts, Trades, and Professions on Health and Longevity" states: "The pearl dust produces often bronchial irritation, and this excites pulmonary consumption in individuals predisposed to the disease." In 1855, Dr. Waller Lewis in a Parliamentary Report on "The Laws and Ordinances in Force in France for the Regulation of Noxious Trades and Occupations" states:

"It is almost exclusively the pearl-button makers, of whom there are a great number in Birmingham, who suffer from inhaling dust." He also states that "The injurious influence of the pearl-button manufacture on health was further confirmed by evidence afforded by Dr. Russell and by Dr. Johnstone." Dr. J. T. Arlidge, an eminent British authority in his "Hygiene, Diseases, and Mortality of Occupations," published in 1892, states that "The cutting, turning, drilling, and polishing of mother-of-pearl are

attended by a large amount of heavy dust, which, from its composition, operates on the respiratory organs in the same fashion and degree as mineral dust." Speaking of the lesions produced in the lungs as a result of inhaling the dust, he refers to the findings of Dr. Greenhow as follows: "This excellent pathologist stated that he had satisfied himself of the identity of the lung affections of these workmen with those of miners, potters, flax dressers, and other operatives exposed to inhale air charged with dust. The symptomatology, moreover, is alike between them, and especially the long existence of shortness of breath before cough and other indications of broken-down health and lung lesion evidence themselves." Dr. Thomas Oliver, a recognized British Governmental expert, in "Dangerous Trades" writes:

Hirt regarded this trade as extremely dangerous. He found that 15 to 16 per cent of the men engaged in this trade died from phthisis. According to Guggenbauer turners of mother-of-pearl are said to suffer from a peculiar affection of the bones (osteomyelitis) owing to absorption of carbonate of lime from particles of the shell that have been inhaled. It is said that obscure rheumatic-like pains subsequently occur, and that the bones ulcerate. I have visited mother-of-pearl grinding shops in Sheffield and interrogated the workers there, but have been unable to find any evidence to support Guggenbauer's contention. The grinding in Sheffield is done by the wet process, and none of the men seem to suffer in the manner alluded to.

The results of my visits, observations, and interrogation of the workers in the industry in this state, has also failed to bring forth any evidence in support of Guggenbauer's contention. Many of the workers complained of rheumatism, but I believe it is attributable to the dampness of the work, together with the results of faulty personal hygiene, and improper dietetics.

The evidence of all investigators into the industry, sustains the contention that respiratory disorders are the results of the dusty character of the processes carried on. According to Arnold (*Untersuchungen über Staub-inhalation*, Leipzig, 1885), coarse particles of dust which are not expectorated cause harm by clogging up the air vesicles and interfere with respiration, an irritation may accompany this condition, and result in an inflammation of the respiratory organs. A chronic inflammatory condition may ensue, and this favors infection with the tubercle bacilli (tuberculosis). The investigation undertaken by the Department demonstrates the presence of large quantities of dust in the pearl button factories, together with numerous colonies of bacteria and moulds, as is shown in the accompanying tables (*post*), thus conclusively proving that a specific cause of such bronchial conditions exists in the industry.

Analyses of samples of the air taken at the breathing level alongside of the machines devoted to wet grinding and drilling, showed the presence of large quantities of dust. This condition may have been caused by the rapid evaporation of the stream of water, through friction, thus permitting the dry particles of dust to fill the air; or it may have been due to the dry particles of the waste matter allowed to accumulate about the machine. The sorting, counting, and carding of the buttons is usually considered as a non-dusty process, but the results of the analyses of the air secured from rooms devoted exclusively to such work, showed the presence of considerable quantities of dust. The workers engaged in this occupation showed the

effects of the dust upon the hands and clothes. The dusty condition is probably due to the fact that the buttons are not thoroughly cleansed in the polishing process. It is in this portion of the industry that the children under 16 years of age are employed.

During my visits to the factories, I have observed that many of the workers engaged in the various processes, are anaemic, and some have admitted that they are prone to suffer from bronchial affections. Many of the children were examined; those who had worked any length of time in the industry showed the results of dust inhalation, for the breathing was found to be of a harsh, rough character, instead of the usual slight, breezy murmur normally present. A number of adult workers in this industry were examined, and asthmatic conditions were found; two workers examined were found to be phthisical, but an examination of the sputum failed to show any tubercle bacilli.

Added to the danger of the irritating properties of the pearl dust, is the irritating effect of the fumes arising from the hydrochloric (muriatic) acid used in polishing, together with the irritating rotten or pumice stone. During my visits, I have seen young workers engaged at polishing wheels; it was claimed that the work was not unhealthful, but the condition of the operators' hands, faces, and clothes, hardly bears out the fact of its being a safe occupation; and by standing alongside of the worker for a few minutes, I was convinced of its dangerous nature.

The manufacture of pearl buttons requires no special skill, and can be accomplished with the use of a few tools, hence it is an occupation which may be carried on in the homes. I am informed by a number of manufacturers that considerable home work is done in this state, mainly among Bohemians. Thus, it can be readily seen that most rigid sanitary regulations are required in order that the health of the workers in this industry may be safeguarded, and stringent regulations should be enforced applicable to the industry carried on in the homes.

The character of the work is such that it should only be performed under the most hygienic conditions. I have found a number of pearl button factories situated in tenant-factory buildings in the congested districts of New York City, where, owing to structural conditions it was almost impossible to properly improve unsanitary surroundings. The rooms were poorly lighted, and the machinery was closely situated, and means for ventilation inefficient. Many young workers were found at work in places of this character.

In a small plant in Long Island, the shop was situated in the extension of the owner's dwelling; in the cellar, which was small and damp, several women were employed. In another factory women were employed all night at the automatic machines; the superintendent informed me that it meant a financial loss to break in other operators. This proves the need of special protection for the women engaged in this industry.

The large amount of organic matter, ammonia, and bacteria, found as a result of the analyses of samples of air taken from the workrooms, many of these rooms having exhaust systems installed and in use, shows that the conditions under which the work is being carried on, are dangerous to the health of the workers. The remedy is the installation of proper and

efficient means of ventilation, with the removal of the dust at its point of origin. Massachusetts has recently enacted a law which provides that the State Board of Health may exclude minors under 18 years of age from any trade, process of manufacture, occupation or method deemed by said board to be sufficiently injurious to the health of such minors as to justify their exclusion therefrom, and among the processes named in the schedule, "cutting, boring, turning, planing, grinding, doming, facing, or polishing pearl shells" are included. I would respectfully recommend that the Department be given power to exclude workers under 18 years of age from this industry.

#### OBSERVED CONDITIONS IN NEW YORK STATE.

An endeavor was made to visit every factory in the state, and secure samples of air for analysis. In several situated at a distance from New York City, only CO<sub>2</sub> tests were made as laboratory facilities were not available at time of visit. Analysis was made for carbon dioxide, oxidizable organic matter, total solids (dust), ammonia, bacteria, and moulds. It is noticeable that the carbon dioxide determinations are not indicative of the dangerous nature of the industry. In many factories physical records of children were secured. The apparently low amount of dust present in some places is due to the fact that they were small places situated in the open country, and samples were taken in mild weather when all doors and windows were open. Return visits were made to a number of the factories.

##### PLANT NO. 1.

This place occupies the seventh loft of a large tenant-factory building. The carding room is partitioned off from main loft. The general conditions in this place are good. A number of windows permit of proper lighting by natural means. All machines are connected with an exhaust system. The amount of dust found was not very high, but the ammonia, and bacteria were.

##### PLANT NO. 2.

This is a small place occupying the fifth floor of a small tenant-factory in a congested district. The general conditions of the place were not good. Despite the fact that machines were connected with an exhaust system, the dust, organic matter, ammonia and bacteria were high, proving inadequacy of ventilation.

##### PLANT NO. 3.

This place occupies the seventh floor of a small tenant-factory in a congested district. The general conditions of the place are poor. In one room were fourteen drilling machines with no exhaust system. The operators were all young females; they were covered with the fine dust, and were obliged to wear head coverings. The analyses showed an exceedingly bad state of affairs, 342 grams of dust per million litres being found, and 5 grams of organic matter. The ammonia and bacteria were also high. The place was decidedly unsanitary, and dangerous to health.

##### PLANT NO. 4.

This place occupied the top floor of a front and a rear tenant-factory; the lofts were joined by a bridge. This building was situated in a congested

district. Windows were ample, but room was divided by partitions. Machines were connected with an exhaust system. In the rear loft, several young men were polishing pearl handles on a buffing wheel, using muriatic acid and pumice stone; their hands, face, and clothes were covered with the material, which is of an irritating character. The general conditions of the place were fair.

PLANT NO. 5.

This is a very small place situated on the sixth floor of an old tenant-factory building in a congested district. Only a few males are employed. Windows are few, lighting is poor. A number of drilling machines have no exhaust connection. Dust, organic matter, and bacteria were high.

PLANT NO. 6.

This is a small place situated on the third floor of an old tenant-factory building in a congested district. Windows were ample, and place was well lighted. Machines were connected with an exhaust system. General conditions of place were not good, and machinery was crowded. A number of young males and females are employed. No air analyses were made.

PLANT NO. 7.

This is a large place occupying a corner building. The second floor is devoted to the office, and to sorting and carding. A large number of girls under sixteen years of age are employed at sorting and counting. A number of physical records were secured. One girl was found to be suffering from trachoma (a contagious eye disease). The upper floors are devoted to sawing, boring, cutting, turning, and finishing. Windows are ample, but despite an exhaust system conditions were not good. The general arrangement of the exhaust system was faulty. The bacterial findings in this place were high.

PLANT NO. 8.

This is a very small place employing only a few males and females; it is situated on the sixth floor of an old tenant-factory in a congested district. General conditions of shop and building are poor. Windows and lighting are inadequate for the character of work. Machines were connected to an exhaust fan. Dust and bacteria findings were high.

PLANT NO. 9.

This is a small place situated in a large tenant-factory in a congested district. A few males are employed, and windows and light were ample. General conditions of the place were good. No tests were made.

PLANT NO. 10.

This is a small place occupying part of the loft in a corner building near the river. A few male adults were employed. Exhaust system was installed, and general conditions of the place were fair.

PLANT NO. 11.

This is a very small place. Several machines without exhaust connection. Dust, organic matter, and bacteria were rather high.

## PLANT NO. 12.

This is a fair-sized place occupying two floors in a tenant-factory situated near the river. General conditions were not good. Despite the installation of an exhaust system, dust, organic matter, and bacteria were high. A large number of females are employed on grinding and drilling machines.

## PLANT NO. 13.

This is a small place situated in an unsanitary tenant-factory in a congested neighborhood. Windows are inadequate, and lighting is poor. It is necessary to use gas for illumination during the day. Machines are connected with an exhaust system, and an endeavor is made to keep the place clean. The dust, ammonia, organic matter and bacteria are very high. This is a building unsuited for manufacturing purposes of this character.

## PLANT NO. 14.

This is a fair-sized place, in a tenant-factory situated in a congested district. General conditions of the place are fair. An exhaust system is installed, but a number of drilling machines are not connected. The dust, organic matter, and bacteria were high.

## PLANT NO. 15.

This is a fair-sized place situated in a tenant-factory. While there are sufficient windows, the machinery is so crowded as to make the place gloomy, and increase the danger of accidents. General conditions were not good, and means of egress in case of fire were dangerous. A number of children were employed on the machines. Dust, organic matter and bacteria were high, despite the exhaust system to which machines were connected.

## PLANT NO. 16.

This is a large place occupying a corner building. The first floor was devoted to sawing, and wet grinding; no exhaust system was installed on this floor; analyses showed a very high amount of dust, organic matter, ammonia, and bacteria. The upper floors were devoted to turning and finishing; light was sufficient, and machines were connected with an exhaust system, but it was ineffective, as dust and organic matter were high.

## PLANT NO. 17.

This is a small place occupying the third floor of a tenant-factory in a closely settled district. Windows are ample, but machinery is so closely situated as to make place gloomy. General conditions of place were not good. An exhaust system was installed but was inefficient. Dust, organic matter and bacteria were high.

## PLANT NO. 18.

This is a small modern building situated in the open country; the place is light and sanitary; both wet and dry grinding and drilling machines are connected with an exhaust system. Dust was high, but this was probably due to open windows permitting outside dust to blow in, as the day was a breezy one in summer. The high organic matter was due to the odor of oil

and gasoline from motor on floor below. The general conditions of this place were very good.

PLANTS NOS. 19-24.

These places were all situated in the open country, and occupied the same type of building. This consisted of a small one room place, motive power being supplied by a gasoline motor. Windows and light were ample; and but few females were employed. General conditions were good. The buttons made were of the fresh water variety. In all cases exhaust systems were installed.

PLANT NO. 25.

This is a large light sanitary loft situated close to the river in a very thinly settled district. Machines are all connected with an exhaust system. Conditions are good. Dust, organic matter, and ammonia were low.

PLANT NO. 26.

This place occupies a small modern building constructed especially for the work. First floor is devoted to cutting and sawing room, also a carding room. The second floor was devoted to grinding, turning and finishing. Wet drilling machines were the only ones not connected with the exhaust system. The general sanitary conditions were good, and dust was not very high.

PLANT NO. 27.

This place was situated in the extension of a dwelling-house. The cellar was used for sawing. The upper floor was used for grinding and finishing. In this room machinery was so closely situated as to really be dangerous. Carding and sorting was done in the dining room. Despite the use of an exhaust system, dust and organic matter were high.

PLANT NO. 28.

This is one of the largest factories in the state occupying the greater part of a modern building situated in the open. The turning, finishing, drilling, etc., is all done by modern automatic machines connected with an exhaust system. Rooms are large, light, and air space per person is ample. A large number of young workers, both male and female, are employed at the machines. In sorting, counting, and carding, the majority of the workers are girls under 16 years of age. A large number of physical records were secured in this place. The general hygienic conditions of the place are good. The findings for dust, organic matter, and bacteria were low.

PLANT NO. 29.

This is a frame building built on the side of a hilly road. The upper floor is devoted to sorting and counting. The lower floor is devoted to drilling. Windows are numerous and air space per person is ample. An exhaust system connects all machines. Analyses of the air showed a very high proportion of dust, organic matter, and ammonia and the bacteria count was high. This may have been due to its peculiar situation to the dusty road, the building being really situated in a gully.



## PLANT NO. 30.

This is one of the largest factories in the country. It occupies two modern brick buildings near the railroad. Machinery is all of the modern automatic type, and connected with a modern exhaust system. One floor is devoted entirely to sorting and counting. This firm has the carding done by home workers. Notwithstanding the fact that conditions in this plant are very good, the ventilation system is faulty. No counter openings were provided for, and while there is an adequate exhaust system, it is unable to accomplish the purpose for which it was installed. The results of the air analyses show this to be so.

On the first floor grinding room, the dust was very thick and 165 grams per million litres were found. In the finishing rooms, the CO<sub>2</sub> was 13 parts, organic matter 9.6 grams, ammonia 4, and 10 colonies of bacteria were found, whereas the dust was only 20 grams, showing that while the exhaust system was effective in removing the dust, the air was dangerously impure from products of respiration. In the room devoted to sorting, where we would expect to find but little dust, there was found 82.5 grams per million litres, which is high. The workers in this room are young persons, many are girls under 16 years of age.

## PLANT NO. 31.

This place occupies a two story brick structure situated near the railroad. Windows are numerous and the place was well lighted. Sanitary conditions are very good. Machines are all connected to an exhaust system. Dust and organic matter were not as low as would be desired. In this factory, women are employed on the all-night shift, at the finishing machines. No children are employed.

## PLANT NO. 32.

This is one of the large places in the state. Both pearl and vegetable ivory buttons are made in the same building. The plant occupies two modern brick buildings situated in the open, and upon the banks of the canal. No tests for dust were made, owing to lack of laboratory facilities. Sanitary conditions were good. Physical records of a number of young workers were secured.

## REGULATIONS NEEDED.

As the danger in this industry is principally from the dust created during the process of manufacture, this condition may be remedied by the application of sections 81 and 86 and in addition, I venture to recommend the formulation of regulations along the following lines.

## FOR EMPLOYERS.

No person under 18 years of age should be employed at sawing, cutting, boring, turning, planing, grinding, doming, facing or polishing pearl shell.

All machines shall be provided with an efficient exhaust system. All workrooms shall be ventilated by artificial means so that an abundant supply of fresh air is maintained.

All floors should be of such material as to be easily subjected to removal of dust by a moist method, and should be cleansed daily. All dust collecting

in or about machines where wet or dry drilling or grinding is done, shall be removed daily. Windows should be cleansed at least once every two weeks.

A sufficient supply of wash basins with running hot and cold water, soap and brushes should be supplied. No food should be brought into, or eaten in the workrooms. Overalls should be worn by males, and aprons and head covering by females, same to be discarded upon leaving the room.

Proper protection for the eyes of sawers should be furnished.

FOR EMPLOYEES.

Extreme cleanliness should be observed.

No worker should in any way interfere with the means and appliances for ventilation or the removal of dust.

Workers should make use of such safeguards as may be provided by the employers for the prevention of injuries.

No food or drink should be brought into the workrooms; meals should be eaten only in a room provided for that purpose. All workers when at work should wear overalls, apron and head covering, the same to be discarded upon leaving after the day's work.

C. T. GRAHAM-ROGERS,  
*Medical Inspector of Factories.*

## RESULTS OF AIR ANALYSES IN

No. of plant.	Date and weather.	Floor of building and process in room.	NUMBER OF EMPLOYEES.		MEANS OF VENTILATION.	TEMPERATURE (FAHRENHEIT).	
			Male.	Female.		Out-doors.	In-doors.
PHOSPHORUS MATCHES.							
1	June 15; clear.	1st; dipping(room A).	12	.....	Windows: 9 S., 6 E., 5 W., 2½ side, each having 4 lower panes open; doors: 1 side, 1 front; the two rooms are connected by large arches.	78	82
		1st; dipping(room B).	10	18		78	82
2	Sept. 27; cloudy.	2d; box making .....	3	8		78	76
		4th; mixing .....	10	.....	Windows: 5 N., 13 E., 12 W.; elevator shaft; dipping room connected by arch; 10 mixing pots connected to 42" exhaust fan; entire building equipped with plenum heating and ventilating system using 12" fan.	67	74
		4th; dipping and packing (room A).	12	40	Windows: 9 N., 6 E., 13 S.; room B connected by 3 arches; lower windows entire length of roof.	67	74
		4th; dipping and packing (room B).	10	70	Windows: 10 N., 14 S.; lower windows entire length of roof; arches connect this room with rooms A and C.	67	76
		4th; dipping and packing (room C).	10	8	Windows: 10 N., 12 S., 4 W.; room B connected by arches; lower windows entire length of roof.	67	74
		2nd; dipping and packing.	11	42	Windows: 4 N., 16 S.; arches to side rooms.	67	76
PEARL BUTTONS.							
1	April 7; clear.	7th; polishing .....	55	9	Windows: 6 front, 12 rear, 6 W., 1 E., many open; 3 large skylights; exhaust system for all machines.	47	69
2	April 21; partly cloudy.	5th; drilling .....	29	6	Windows: 6 front, 3 rear, 2 side, open; grinding machines connected with exhaust system.	60	72
		7th; drilling .....	60	32	Windows: 6 front, 7 rear, 8 side, many open; 1 skylight.	60	72
4	May 9 and 21; cloudy.	5th; (front) finishing .....	100	40	Windows: 14 front, 2 side, some partly open; exhaust system for 20 machines.	66	67
		5th (center) finishing .....				66	67
		5th; (rear) polishing .....	36	.....	Windows: 16 front, 3 skylights open; exhaust system for 19 drilling machines.	68	70
		5th (rear); drilling .....				68	71
5	May 21; clear.	6th (rear); drilling ..	7	.....	Windows: 2 side, 2 rear, open; 7 machines connected with exhaust system.	.....	67
6	May 21; clear.	3rd; polishing .....	20	8	Windows: 3 front, 3 rear, 6 side, partly open; exhaust system for all machines.	*	*
7	June 6; clear.	5th; drilling, polishing and sorting .....	26	26	Windows: 7 E., 9 S., 6 N.; 7 windows partly open; exhaust system for 40 machines.	66	73
		4th; drilling and backing .....	40	20	Windows: 7 E., 9 S., 6 N.; windows partly open; exhaust system for some machines.	66	70
		3rd; drilling, polishing and sorting .....	4	2	Windows: 7 E., 4 S., partly open; exhaust system for 4 machines.	66	68
		2nd; counting and sorting .....	5	65	Windows: 7 E., 9 S., 6 N., partly open.	66	71
8	Aug. 16; cloudy.	6th (center) .....	3	2	Windows: 2 S., 4 W., partly open; exhaust system for 4 machines.	68	74
9	Aug. 16; cloudy	.....	6	2	Windows: 3 front, 3 rear, 4 side, open; exhaust system for machines.	*	*

\* Not observed.

## CERTAIN FACTORIES, 1910.

HUMIDITY.		RESULTS OF AIR ANALYSIS.						Remarks. [Including notation of artificial light or heating in use; and any fumes, odors or gases observed.]
Out-doors.	In-doors.	Parts of CO <sub>2</sub> in 10,000 volumes.	Parts of ammonia in 1,000,000 volumes.	Grams of oxidizable organic matter in 1,000,000 liters of air.	Grams of solids in 1,000,000 liters of air.	Number of colonies of bacteria per liter of air.	Number of moulds per liter of air.	
74	80	8	*	0.96	80.0	*	*	{ No exhaust system; marked odors of phosphorus and paraffin; analysis showed 0.2 grams phosphorus per million liters of air in room A, and 0.28 grams in room B.
74	81	9	*	1.40	62.0	*	*	
.....	74	7	*	0.86	42.9	*	*	Analysis showed 0.09 grams phosphorus per million liters of air. Analysis showed 0.61 grams phosphorus per million liters of air.
70	68	8	*	7.40	440.0	*	*	
70	63	7	*	36.00	229.0	*	*	Analysis showed 0.81 grams phosphorus per million liters of air; each of six dipping machines has dry air blast to dry matches. Analysis showed 0.74 grams phosphorus per million liters of air.
70	63	8	*	18.30	291.0	*	*	
70	63	7	*	18.00	210.0	*	*	Analysis showed 0.8 grams phosphorus per million liters of air. Analysis showed 1.1 grams phosphorus per million liters of air.
70	65	10	*	36.00	440.0	*	*	
70	65	7	2.0	1.64	13.2	14	6	{ Carding room and office partitioned off; place dirty; wood floor.
.....	.....	8	.....	.....	15.6	16	8	
73	70	6	3.0	3.20	125.0	7	2	Wood floor, dusty; acid fumes (HCl).
73	52	9	2.0	5.51	342.0	12	5	
79	68	8	1.0	1.28	55.0	*	*	{ No exhaust system for 14 drilling machines; first test made at these machines; wood floor, dusty; steam heat; acid fumes (HCl).
79	68	8	1.0	1.39	42.0	10	4	
84	70	9	1.0	0.51	42.3	9	2	
84	69	7	1.0	1.12	51.0	9	0	
.....	51	9	5.0	0.70	38.0	14	7	No exhaust system for 5 wet drilling machines; acid fumes (HCl).
*	*	*	*	*	*	*	*	
78	63	8	1.0	0.96	37.5	11	0	No exhaust system for 6 machines; exhaust system for others in very poor condition; acid fumes (HCl).
78	65	8	1.0	1.20	49.3	9	0	
78	59	7	†	0.65	34.7	8	1	No exhaust system for 4 wet drilling machines; exhaust system for others in very poor condition.
78	76	10	1.0	1.40	39.3	16	2	
84	80	7	1.0	0.35	64.0	9	4	No exhaust system for 2 wet carving machines; acid fumes (HCl).
*	*	*	*	*	*	*	*	
								Wood floor; place clean.

† Trace.

## RESULTS OF AIR ANALYSES IN

No. of plant.	Date and weather.	Floor of building and process in room.	NUMBER OF EMPLOYEES.		MEANS OF VENTILATION.	TEMPERATURE (FAHRENHEIT).	
			Male.	Female.		Out- doors.	In- doors.
PEARL BUTTONS — (Continued).							
10	Aug. 24; cloudy.	3rd; drilling.....	10	.....	Windows: 5 front, open; exhaust system for 12 machines.	74	80
11	Aug. 24; cloudy.	3rd; drilling.....	12	.....	Exhaust system for machines.....	74	79
12	Aug. 25; clear.	1st; polishing.....	40	15	Exhaust system.....	78	80
		1st; drilling and polishing.	35	60	.....	78	79
13	April 14; cloudy.	3rd; drilling.....	15	6	Windows: 8 side, partly open; exhaust system for machines.	74	76
14	Aug. 30; clear.	.....	40	55	Exhaust system for 28 machines.....	73	72
15	Aug. 30; clear.	3rd; drilling, etc....	6	25	Windows: 3 front, 3 rear, 5 side, open; exhaust system for machines.	68	70
16	Aug. 25; cloudy.	1st; sawing, drilling and polishing.	5	.....	Windows: 7 front, 1 rear, open.....	67	76
		4th; sawing, drilling and polishing.	4	26	Windows: 11 S., 11 N., 6 E., 2 W., some slightly open; 4 roof openings; exhaust system for grinding machines.	67	72
17	Aug. 25; cloudy.	3rd; polishing, etc....	7	16	Windows: 3 front, 3 rear, 5 side; 1 door; door and windows partly open; exhaust system for grinding machines.	67	78
18	Aug. 26; partly cloudy.	2nd (center); drilling and polishing.	23	.....	5 machines connected to 12" fan; 10 wet grinders connected to 14" fan.	69	78
		1st; carding.....	1	5	Windows: 2, partly open.....	69	75
19	Aug. 26; clear.	1st; drilling and polishing.	15	.....	Windows: 3 N., 5 E., 4 W.; door: 1 W.; windows and door open; 4 polishing machines and wet drilling machines connected to exhaust system.	69	75
20	June 2; clear.	1st; drilling and polishing.	8	1	Windows: 6 S., 2 W., 2 E., all open; exhaust system for all machines.	61	67
21	June 2; clear.	1st; drilling and polishing.	16	5	Windows: 1 S., 5 E., 4 W., 6 entirely open; exhaust system for all machines.	61	70
22	June 3; clear.	1st; drilling and polishing.	7	.....	Windows: 3 rear, 4 side; 1 door; all open; exhaust system for all machines.	62	74
23	Aug. 30; clear.	1st; drilling and polishing.	22	5	Exhaust system for 18 machines.....	73	71
24	June 3; clear.	1st; drilling and polishing.	8	.....	Windows: 3 N., 1 S., 3 E., 4 W.; 1 door; all open; exhaust system for 3 machines.	62	71
25	April 5, 1900; clear.	1st; drilling and polishing.	30	25	Windows: 24, three-quarters open; exhaust system for 42 machines (including 19 drillers).	.....	.....
26	May 17; clear.	2nd (center); drilling and polishing.	35	15	Windows: 5 open; exhaust system for 28 machines.	57	62
		1st (center); backing and sawing.	2	2	Exhaust system for 105 machines..	57	64
27	April 28; clear.	2nd; polishing.....	12	4	Windows: 2 rear, 4 side; 2 rear windows open; exhaust system for all machines.	48	70
		Cellar; sawing.....	2	.....	Windows: 2 rear, 4 side; 2 side windows open; exhaust system for all machines.	48	62
28	May 18; clear.	4th; finishing and sorting.	25	120	Windows: 20 N., 17 S., slightly open; exhaust system for 105 machines.	55	65
		3rd; carding.....	15	140	Windows: 9 E., 20 W., louvered.....	55	72
		3rd; polishing.....	10	.....	Windows: 9 front (office), 8 side and rear, open; two 24" exhaust fans.	55	63
		1st; polishing.....	20	.....	24" fan in window.....	55	67

\* Not observed.

## CERTAIN FACTORIES, 1910 — (Continued).

Humidity.		RESULTS OF AIR ANALYSIS.						Remarks. [Including notation of artificial light or heating in use; and any fumes, odors or gases observed.]
Out- doors.	In- doors.	Parts of CO <sub>2</sub> in 10,000 vol- umes.	Parts of ammonia in 1,000,000 vol- umes.	Grams of oxidiz- able organic matter in 1,000,000 liters of air.	Grams of solids in 1,000,000 liters of air.	Num- ber of colonies of bacteria per liter of air.	Num- ber of moulds per liter of air.	
84	76	6	†	0.89	50.0	6	0	Wood floor; place dusty; 3 machine <sup>s</sup> not connected with exhaust system.
84	82	7	1.5	1.30	49.0	7	0	No exhaust system for 3 machines.
68	65	7	1.0	0.96	40.0	7	7	Acid fumes (HCl).
68	67	8	1.9	1.00	62.0	5	3	
61	69	14	2.0	2.60	83.1	17	8	Wood floor; place gloomy; gas lights.
76	75	7	0.5	0.41	54.0	4	6	Cement floor; place clean; no exhaust system for 22 small drilling machines.
84	87	8	2.0	0.82	95.0	15	5	Wood floor; place dusty; acid fumes (HCl); machines very close together.
87	80	8	1.5	6.20	150.0	14	5	Wood floor; wet grinding; very dusty.
87	83	7½	1.0	0.42	32.0	10	1	Exhaust system not effective; place dusty.
87	79	7	2.0	0.80	93.0	12	5	Wood floor; place dusty and gloomy; machines close together; acid fumes (HCl).
60	64	8	†	3.30	75.0	4	2	Odor of gasoline and oil from engine-room below responsible for high organic matter.
60	78	.....	1.0	8.10	47.2	9	3	Gas engine in other part of room; odor of gasoline.
60	69	7	†	1.20	22.0	3	0	No exhaust system for 5 drilling machines; gasoline engine.
64	70	8	1.0	0.50	12.0	4	1	Wood floor; gasoline engine.
64	71	10	1.0	1.53	16.0	9	0	Wood floor; gasoline engine.
73	75	6	†	0.47	14.0	3	0	Wood floor; gasoline engine.
76	69	6	†	0.96	39.5	4	0	No exhaust system for 5 machines.
73	74	6	†	1.30	69.1	4	0	Exhaust system for 5 wet drilling machines not in use; gasoline engine.
.....	.....	6	.....	1.16	10.0	9	0	
50	50	7	†	0.52	29.0	4	0	No exhaust system for 15 wet drilling machines.
50	61	6	*	*	*	*	*	No exhaust system for 7 wet drilling machines.
49	62	5	3.0	1.20	30.0	11	6	Shop in addition to rear of dwelling; machines very close together; workers crowded.
49	71	6	.....	6.10	42.0	9	10	Acid fumes (HCl).
70	79	10	†	0.44	5.2	6	1	Place dusty; no exhaust system for 7 wet drilling machines.
70	79	12	1.9	2.30	26.1	8	2	
70	66	8	0.9	0.71	19.5	3	4	Acid fumes (HCl).
70	64	9	†	*	*	*	*	

† Trace.

## RESULTS OF AIR ANALYSES IN

No. of plant.	Date and weather.	Floor of building and process in room.	NUMBER OF EMPLOYEES.		MEANS OF VENTILATION.	TEMPERATURE (FAHRENHEIT).	
			Male.	Female.		Out-doors.	In-doors.

## PEARL BUTTONS—(Concluded).

29	May 18; clear.	1st; drilling.....	25	.....	Exhaust system for all machines....	67	
		2nd; sorting and counting.....	1	15	Windows: 11 S., 10 N., 6 E.; 1 door; all partly open.	63	
30	May 2; cloudy.	1st; grinding.....	24	.....	Door open; exhaust system for 26 grinding machines.	65	
		2nd; finishing.....	47	9	Windows: 4; and door slightly open; exhaust system for all machines.	78	
		2nd; finishing (new mill).	12	42	Windows: 14 E., 6 S., 3 W.; 2 doors; all slightly open; exhaust system for all machines.	72	
		3rd; sorting.....	4	90	Windows: 17 E., 2 W., 4 N.; 1 door, E.; some partly open; 2 skylights.	70	
31	May 2; cloudy.	1st; sorting.....	.....	25	Windows: 5 S., 9 N., slightly open.	71	
		2nd; drilling and finishing.....	8	15	Exhaust system for 10 finishing machines.	68	
32	Nov. 10-11, 1909; clear.	Cellar; polishing.....	20	15	Few windows open; exhaust system for pearl button machines.	68	
		3rd; finishing.....	12	10	.....	71	
33	April 14; clear.	3rd; polishing.....	15	6	Windows: 8 side, partly open; exhaust system for machines.	*	*

## MISCELLANEOUS INDUSTRIES.

## KNIT GOODS.

1	April 5; partly cloudy.	5th (rear).....	10	40	Windows open: 7 front, 4 rear, 7 side.	74	78
		5th (center).....	.....	.....	.....	74	76
		5th (front).....	.....	.....	.....	74	75

## ARTIFICIAL FLOWERS.

2	April 12; partly cloudy.	10th (center).....	4	145	Windows: 7 front, 4 rear, 7 side; doors: 2 rear, open.	57	70
		10th (front).....	.....	.....	.....	57	70

## CIGARS.

3	April 14; clear.	3rd (center); rolling..	8	4	Windows: 2 front, 4 rear, open.....	68	72
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## BRASS GOODS.

4	April 15; cloudy.	2nd; buffing.....	18	1	Windows: 4 front, 4 rear; coke ovens hooded; 2 windows in buffing room open.	74	75
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## STATIONERY.

5	April 19; cloudy.	3rd; engraving.....	2	20	Windows: 3 front, 3 rear.....	61	68
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\* Not observed. † Trace.

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## CERTAIN FACTORIES, 1910 — (Continued).

HUMIDITY.		RESULTS OF AIR ANALYSIS.						Remarks. [Including notation of artificial light or heating in use; and any fumes, odors or gases observed.]
Out- doors.	In- doors.	Parts of CO <sub>2</sub> in 10,000 vol- umes.	Parts of ammonia in 1,000,000 vol- umes.	Grams of oxidiz- able organic matter in 1,000,000 liters of air.	Grams of solids in 1,000,000 liters of air.	Num- ber of colonies of bacteria per liter of air.	Num- ber of moulds per liter of air.	
.....	60	6	†	7.30	291.0	18	0	
.....	59	6	†	3.79	145.0	9	0	
.....	68	10	2.5	2.30	165.0	13	5	Windows closed; place very dusty; steam heat.
.....	79	13	4.2	9.60	20.0	28	10	Floor wood; place close but clean; steam heat.
.....	69	8	2.6	3.60	72.5	10	2	Steam heat.
.....	57	6	0.5	1.20	82.5	5	0	Floor wood; place dusty; steam heat.
.....	62	7	1.5	4.80	85.0	4	0	Wood floor; place dusty; steam heat.
.....	56	6‡	0.5	2.30	87.0	3	0	Wood floor; place clean.
.....	51	9	*	*	*	*	*	No exhaust system for two machines using gas; both pearl and vegetable ivory buttons made in same building; steam heat; Department had no laboratory facilities at this time.
.....	62	14	*	*	*	*	*	Odor from machines using gas; steam heat; Department had no laboratory facilities at this time.
*	*	*	*	*	*	*	*	Department had no laboratory facilities at this time.
82	78	9	1.5	13.20	55.0	10	2	} Electric lights; microscopic examination showed cotton fibres, skin, epithelial cells. Wooden floors, clean; electric lights.
82	78	‡10	1.5	10.90	60.0	.....	.....	
82	78	8	1.5	13.30	54.0	.....	.....	
46	62	9	0.2	1.50	23.0	8	3	} Welsbach lights; wooden floors clean; alcohol odor.
46	62	9	0.0	1.30	21.0	.....	.....	
55	70	10	4.0	16.00	110.0	.....	.....	Electric lights; tobacco odor.
61	58	12	0.3	5.00	500.0	35	10	Lacquer odor; smoke; hoods of coke ovens and buffing wheels not connected with exhaust system; 3 coke furnaces in main room; buffing-room partitioned off; wood floors, dirty.
91	85	8	†	4.00	10.0	2	.....	Turpentine odor; small amount of bronze powder used in some cases for dusting; wood floors, clean; Welsbach lights.

‡ Some staphylococci present.



## RESULTS OF AIR ANALYSES IN

No. of plant.	Date and weather.	Floor of building and process in room.	NUMBER OF EMPLOYEES.		MEANS OF VENTILATION.	TEMPERATURE (FAHRENHEIT).	
			Male.	Fe- male.		Out- doors.	In- doors.
MISCELLANEOUS INDUSTRIES — (Concluded).							
PRINTING.							
6	April 20; partly cloudy.	5th; linotype compos- ing.	11	7	Windows: 13, 6 partly open; linotype machines hooded and piped, and connected to 12" fan in roof.	58	67
		5th; monotype casting	3		Windows: 3.....	58	65
COTTON GOODS.							
7	June 7; clear.	1st; weaving.....	10	14	Windows: 38 side, 2 end, some open.....		72
		2nd; spinning.....	10	12	Windows: 39 side, 4 end, some open.....		80
		2nd; carding.....	10		Windows: 38 side, 2 end, some open.....		72
MICA PRODUCTS.							
8	July 12; partly cloudy.	1st; plate forming..	3	16	Windows: 19 side; large opening to other room.	79	77
BRONZE POWDER.							
9	Sept. 6; partly cloudy.	2nd (center).....	18		Windows: 4 front, 6 rear.....	82	78
		2nd (rear).....				82	78
WOOLEN RAG SORTING.							
10	Sept. 8; partly cloudy.	2d (center).....		4	Windows: 3 front, 3 rear, partly open	74	77
COATS.							
11	Sept. 16; partly cloudy.	4th (center).....	30	17	Windows: 3 front, 3 rear, slightly open.	72	79

CERTAIN FACTORIES, 1910—(*Concluded*).

HUMIDITY.		RESULTS OF AIR ANALYSIS.						Remarks. [Including notation of artificial light or heating in use; and any fumes, odors or gases observed.]
Out- doors.	In- doors.	Parts of CO <sub>2</sub> in 10,000 vol- umes.	Parts of ammonia in 1,000,000 vol- umes.	Grams of oxidiz- able organic matter in 1,000,000 liters of air.	Grams of solids in 1,000,000 liters of air.	Num- ber of colonies of bacteria per liter of air.	Num- ber of moulds per liter of air.	
72	63	9	†	0.43	11.0	3	.....	Wood floor, clean.
72	68	7	†	0.30	7.8	.....	.....	
.....	83	6	†	0.88	28.0	15	.....	Artificial humidification in all rooms; air in all rooms filled with lint; workers in spinning-room in bare, feet; floors in carding-room wood; constantly swept; workers clean.
.....	60	7	†	1.23	52.0	4	.....	
.....	83	7	†	1.20	55.0	10	.....	
49	52	6	†	3.80	28.0	2	.....	Microscope showed mica plaques analysis showed 0.1 gram alcohol per cubic meter of air; concrete floor, clean.
86	79	8	†	0.50	72.0	1	8	} Wood floor; place slightly dusty.
88	79	8	†	0.38	70.0	.....	.....	
72	50	6	0.5	0.42	20.0	6	4	Wood floor, clean.
50	70	14	3.0	1.40	23.0	270	4	Wood floor, very dirty and unsani- tary.

† Trace.

## (C) REPORT OF THE TUNNEL INSPECTOR.

HON. JOHN WILLIAMS,

*Commissioner of Labor, Albany, N. Y.*

SIR: I hereby submit my annual report for the year ended September 30, 1910.

As usual, each contract was visited every three months or as near thereto as possible, allowing for two inspections and two observations during the year; but an assignment to factory inspection duty for the first three and one-half months of the fiscal year curtailed the visits to but three to each contract.

The total number of tunnels or sections of tunnels under supervision amounted to 49, together with two compressed air caisson contracts containing 127 caissons. The highest air pressure under which men worked was 46 pounds per square inch on caisson work for the Municipal Building foundations in New York City. Men worked in this pressure in three forty-minute shifts with a three-hour intermission out of twenty-four hours. Caisson work was carried on only in New York City and was for the purpose of building foundations. One other contract in the State using compressed air was located in Buffalo — the water supply tunnel under Lake Erie.

It is gratifying to note that practically every conceivable precaution had been taken on compressed air work for the safety and comfort of the men, without waiting for official orders from this Department. Could any further suggestions have been made, I am certain that these several contractors would have been only too willing to comply with them.

The other class of work — subterranean — for the greatest part consisted of tunnels, forming portions of the Catskill Aqueduct, from the Catskill Mountains to New York City. It was upon this work that two new American records for driving one-heading rock tunnels were established, that three different methods of driving rock tunnel were in use and that several innovations were introduced in timbering treacherous rock.

During the month of October, 1909, at shaft No. 7 of the Rondout Siphon, the south heading was advanced 488½ feet. This was claimed to be a record run at that time for a rock tunnel of

that size (17½ feet). Again, during the month of September, 1910, at shaft No. 3 of the Wallkill Siphon, this record was eclipsed by advancing the north heading 523 feet for the same size tunnel. This kind of work is carried on both day and night, the men working in three eight-hour shifts.

Of the various methods of driving rock tunnel, the one most frequently used in the large tunnels and by means of which the new records were made, is to drive a top heading and follow along with the bench as near to the top heading as convenient.

Another method used by several tunnels, where shafts are not necessary, is to hole through from end to end the top heading and then take out the bottom. This method is fast, quite safe for the men, and when holed through offers good, natural ventilation in which the remainder of the work may be carried on.

One tunnel, working from two portals, is being driven by carrying along a bottom heading and taking the rock out from atop of a timbered platform, dropping excavated rock to cars below by means of chutes. This method is quite safe for men.

In one tunnel, where extensive timbering was necessary, a form of "steel timber" has been introduced, steel taking the place of the timber. This steel remains in place when tunnel is lined with concrete, whereas the timbers would have to be removed before lining with concrete. This naturally tends toward greater safety, as the treacherous rock might give way when removing timbers before concreting.

A similar method has been resorted to in shaft timbering at Storm King, where the aqueduct will cross under the Hudson River. At present the shafts there are down about 900 feet and will have to go down farther. It was found that, due to the enormous pressure upon the unsupported rock at that depth, the least fault in the rock would cause occasional breakings and consequently a fall of rock upon men working below. Timber here would have to be taken out when concreting the shaft, thus perhaps causing many breaks. Steel, making a stronger and safer support, has supplanted timber here, and will not have to be taken out when shaft is to be concreted.

There were employed on tunnel work during the fiscal year 8,190 men, only 450 of this number working in compressed air.

Accidents reported to the bureau amounted to 817, with 49 fatalities. In comparison to the previous year the ratio of accidents to number of men has not decreased to any extent, and the fatalities have unfortunately increased. For the greater part the fatalities were due to powder explosion in one form or another, and can be attributed directly to the carelessness in handling of explosives by one man — that apparently unconscious carelessness acquired by men working in hazardous occupations.

In all, tunnels that when completed would aggregate thirty-seven miles, were in the course of construction during the past year, and as much or more will be working during the coming year.

Respectfully submitted,

(Signed)

GUSTAV WERNER,

*Tunnel Inspector.*

## STATISTICS OF TUNNELS INSPECTED, 1910.

LOCATION AND PURPOSE OF TUNNELS.	Owner.	Contractor or constructor.	Number of tunnels or sections.	Number of employees.	NUMBER OF —	
					Inspections.	Observations.
<i>Buffalo.</i>						
Water intake.....	City of Buffalo.....	Buffalo Dredging Co.....	2	300	1	2
<i>New York City.</i>						
Railroad.....	Hudson & Manhattan R. R. Co.....	Degnon Contracting Co.....	1	300	1	2
Building foundations.....	Manhattan Trust Co.....	Foundation Co. of America.....	11*	50	2	1
Shaft and station.....	City of New York.....	Rapid Transit Subway Construction Co.....	1	200	2	2
Shaft and station.....	City of New York.....	Rapid Transit Subway Construction Co.....	1	75	1	2
Railroad.....	City of New York.....	Bradley Contracting Co..... Degnon Contracting Co..... Cranford Co.....	5a	.....	.....	9
Building foundations.....	City of New York.....	Foundation Co. of America.....	116*	100	1	2
Sewer (Bronx Borough).....	City of New York.....	McDonald & Barrey.....	1a	.....	.....	3
<i>Niagara Falls.</i>						
Sewer.....	City of Niagara Falls.....	Reed & Coddington.....	1b	.....	.....	1
Sewer.....	City of Niagara Falls.....	Reed & Coddington.....	1	35	1	1
Shaft and foot passage.....	State of New York.....	Chas. E. Frazer.....	1b	.....	.....	1
<i>ORANGE COUNTY.</i>						
<i>New Windsor and Cornwall.</i>						
Aqueduct.....	City of New York.....	Mason & Hanger Co.....	1	1,000	1	3
<i>Cornwall.</i>						
Aqueduct.....	City of New York.....	Board of Water Supply, New York City.....	1	200	1	2
<i>PUTNAM COUNTY.</i>						
<i>Phillipstown.</i>						
Aqueduct.....	City of New York.....	Dravo Contracting Co.....	2	.....	.....	1
Aqueduct.....	City of New York.....	Patterson & Co.....	1	250	2	1
Aqueduct.....	City of New York.....	A. K. Everett & Co.....	1	30	2	1
Aqueduct.....	City of New York.....	Hicks & Johnson Co.....	1	425	2	1
<i>Putnam Valley.</i>						
Aqueduct.....	City of New York.....	John W. McReynolds.....	1	135	1	2
<i>ULSTER COUNTY.</i>						
<i>Marbletown.</i>						
Aqueduct.....	City of New York.....	H. L. Kerbaugh.....	1	200	1	2
<i>Marbletown-New Paltz.</i>						
Aqueduct.....	City of New York.....	T. A. Gillespie Co.....	2	1,500	2	4
<i>New Paltz-Gardenier.</i>						
Aqueduct.....	City of New York.....	Degnon Contracting Co.....	2	1,400	2	4
<i>Kingston.</i>						
Sewer.....	City of New York.....	King, Rice & Ganey.....	1	100	2	1
<i>WESTCHESTER COUNTY.</i>						
<i>Yorktown.</i>						
Aqueduct.....	City of New York.....	Glyndon Contracting Co.....	2	375	4	3
Aqueduct.....	City of New York.....	Bradley Contracting Co.....	2	300	4	4
Aqueduct.....	City of New York.....	Chas. W. Blakeslee & Sons.....	2	175	2	2
<i>New Castle-Mt. Pleasant.</i>						
Aqueduct.....	City of New York.....	Rinehart & Dennis..... [C. M. Bolton & Co.....]	8	405	4	5
<i>Mt. Pleasant.</i>						
Aqueduct.....	City of New York.....	John C. Rodgers & Sons.....	1	.....	.....	2

\* Cairsons.

a Completed in February, 1910.

b Completed in April, 1910.

## STATISTICS OF TUNNELS INSPECTED, 1910 — (Continued).

LOCATION AND PURPOSE OF TUNNELS.	Owner.	Contractor or constructor.	Number of tunnels or sections.	Number of employees.	NUMBER OF —	
					Inspections.	Observations.
<i>Mt. Pleasant-Greenburgh.</i> Aqueduct.....	City of New York.....	Pittsburg Contracting Co.....	1	....	....	2
<i>Yonkers.</i> Aqueduct.....	City of New York.....	Geo. W. Jackson.....	1	225	1	3
Aqueduct.....	City of New York.....	Dravo Contracting Co.....	2	150	1	4
Sewer.....	County of Westchester.....	American Pipe and Construc- tion Co.....	2	200	1	3
Total.....	.....	.....	*	8,190	42	76

\*49 tunnels, 127 caissons.

# APPENDIX III.

## GENERAL REPORT OF BUREAU OF MEDIATION AND ARBITRATION.

HON. JOHN WILLIAMS,

*Commissioner of Labor, Albany, N. Y.*

SIR:— The following is a summary report of the Bureau of Mediation and Arbitration, together with a review of general industrial conditions as reflected by the relations between employer and employed for the fiscal year ending September 30, 1910, including comparative tables between this and previous years.

### COMPARISON OF DISPUTES, 1909-10.

	1909.	1910.
Number of strikes and lockouts.....	178	246
Employees involved { directly .....	52,599	170,400
{ indirectly .....	14,579	19,197
Aggregate days of working time lost.....	*1,068,198	†5,595,384

Principal Cause or Object.	Number of Disputes.	
	1909.	1910.
Increase in wages.....	84	134
Reduction in wages.....	8	5
Shorter hours .....	5	14
Longer hours .....	1	2
Trade unionism .....	45	37
Particular persons .....	9	18
Working arrangements .....	13	28
Payment of wages.....	2	3
Sympathetic .....	3	4
Miscellaneous .....	6	1

The year 1910 has been prominent in industrial history for its large number of strikes and lockouts, many of them involving unusually large numbers of employees, and the great loss of working time occasioned thereby. The number of strikes recorded was but little below the record for 1907 and in magnitude they far exceeded those in any other year in the last decade. More than three times as many workmen were engaged in labor disputes and the time lost by them amounted to more than five times the amount lost in 1909. During the year ended September 30, 1910, five

\* To the end of all disputes.

† To September 30, 1910.



and a half million working days were lost by workmen participating in or thrown out of work on account of industrial disputes. Last year the amount was only 1,068,198 days. In 1903, the year of the great building trades disputes in New York City, the lost time for the year was 4,150,044 days.

Using the number of working days lost as the basis for a comparison of the importance of disputes, because it takes into consideration both the number of employees involved and the duration of a dispute, it is found that disputes were considerably more important as well as more numerous this year than in 1909. The leading dispute was the strike of cloak makers in New York City, which is remarkable both for the unusual number of participants and for the aggregate working days lost, as it involved 70,000 employees and lasted eight weeks. This one dispute included more workmen than all the disputes of 1909 and was about four times as extensive in time lost by those on strike. Another dispute, that of shirt-waist makers, also in New York City, involved 25,000 employees and a loss of 664,000 days. Six other disputes of this year are measured by a loss of more than 100,000 days each, whereas last year there were only two as large. Thirty disputes altogether are included in a list of those having caused a loss of 10,000 days or more apiece. Last year there were 19. These 30 disputes include 95 per cent of the aggregate time lost in all disputes of the year, while the 19 of last year accounted for 82 per cent of the aggregate. The localities affected by the largest disputes were New York City, the International Paper Company's mills in seven cities and villages, Rochester, Buffalo, Syracuse, Schenectady, Jamestown and the lines of the Delaware and Hudson Railroad.

New York City was the scene of twenty of the principal disputes and of one-third of all disputes of the year. But the relative importance of the metropolis as a center of industrial disturbances is more clearly shown in the amount of time lost. Nine-tenths of the aggregate loss in working days occurred through strikes in New York City.

Among the various divisions of industry the building industry was as usual the most conspicuous for frequency of strikes. One-third of the year's disputes occurred in construction or repair

work, all of which is classed as building. Most of the industry groups show an increase over last year in number of disputes, the largest increases being in the metal, the building and the paper-making industries. The clothing trade was an exception to this rule, having fewer disputes than last year. But in the classification according to workpeople involved the working days lost, the clothing manufacturers have headed the list for the last three years and this year are far ahead of the rest owing to the big strikes of clothing workers.

Arranged according to importance in working days lost, the ten principal industries affected by disputes rank in the following order: clothing; building; food, liquors and tobacco; metals and machines; paper and pulp; textiles; leather and rubber goods; transportation and communication; stone and clay; wood manufactures. The most notable increases over last year appear in the textile, paper, clothing, building, and food industries respectively. Two industries show decreases in the importance of disputes, namely, the stone and clay industry and wood manufactures. The printing industry, in which there were no strikes recorded last year, reported two in 1910, but both were quite unimportant.

The added restlessness of the employed classes during a period of industrial prosperity was demonstrated this year by the greater frequency of strikes for certain objects, as follows: advance of wages, reduction of hours, improved working conditions and employment of persons preferred by the working men and women. Strikes for advance of wages, always more numerous than for any other cause, were this year more than for all other causes combined. The strikes resulted more frequently in compromises than in absolute gains for either the employers or the workmen. Trade unionism, although the original cause for fewer strikes than last year, was the main contention of more than half the participants in the entire number. It also entered into many disputes classed under some other cause, the demand for union recognition being often added to the primary object of the strike. Twice as many strikes were recorded this year which had for their object the shortening of hours of labor, the employment or discharge of particular persons or the regulation of working conditions.

Results of disputes show that 85 per cent of the workmen involved were either entirely or partly successful. Although the employers won 40 per cent of the disputes, the number of employees thus defeated was but little more than ten per cent of the whole number participating in strikes. The conclusion to be drawn is that the disputes won by employers were those involving small numbers of workmen and that the more important disputes were won by the workmen. In fact, the average number of employees to a dispute is less than 200 in strikes won by employers and over 1,000 in those which resulted favorably to the workmen. A large number of compromises were made and principally in those strikes having for their object increase of wages, reduction of hours or changes in working arrangements. Compromises were quite rare in strikes concerning trade unionism.

In the settlement of disputes, the method most frequently successful is that of direct negotiations between the parties. About half of the disputes of 1910 were settled in this manner, which is a higher proportion than last year. Those disputes in which the parties refused to negotiate with each other were usually terminated only by the unconditional surrender of the strikers and their return to work on the employers' terms, or by their displacement with new employees, which generally brings a disadvantage to the employers as well as utter defeat for the strikers.

Only three disputes were settled by arbitration, but mediation by outside parties or by representatives of the bureau resulted in settlement of more disputes than last year. One public investigation into the causes of a dispute was made by the State Board of Mediation and Arbitration. This was the strike of paper makers, which was among the five most important strikes of the year and was adjusted through the efforts of the board. The bureau intervened during the year in ninety-two disputes, more than one-third of the entire number. These included nearly all the more important disputes, with frequently two or three separate interventions in a single dispute. Intervention by the state mediators generally took the form of conciliatory methods, the object being to bring the disputants into the way of treating with each other by means of conferences in which both sides should have fair hearing and opportunity for mutual concessions. Three times as

many requestes for intervention were received this year as in 1909. Several requests were made after the failure of the initial intervention to effect a settlement. The number of settlements resulting from the bureau's efforts was about one-fourth of the number of interventions, which is nearly the same proportion as in 1909 and 1908.

More than one hundred trade or industrial agreements were filed during the year with the bureau. One-quarter of these were comprised in the building trades, nearly as many in the transportation industries and ten or more apiece in the food, clothing and metal trades. Six other industries are represented in the remaining agreements. Fewer of this year's agreements than of last contains a "closed shop" clause or an expression of preference for union employees but more contain an arbitration clause, that is, provision for settlement of disputes by arbitration or some other prescribed method. The latter clause is found in more than half the agreements and in nearly all of those in the transportation trades. Sixty per cent of all the agreements received were entered into at the culmination of peaceful collective bargaining, while the other forty per cent were signed at the termination of strikes.

## COMPARISON OF INTERVENTIONS, 1909-10.

	1909.	1910.
Number of disputes in which intervention occurred.....	77	92
Total number of interventions, including second and third efforts.	82	107
Number of requests received for first intervention.....	8	15
Number of requests for second or third intervention.....	.....	9
Number of disputes in which intervention was successful.....	19	22
Number of disputes in which intervention was unsuccessful.....	58	70
Number of interventions before strikes.....	8	10
Whole number of conferences arranged.....	26	35
Number of disputes settled by mediation.....	5	8

## LIST OF DISPUTES IN WHICH INTERVENTION OCCURRED.

October 1, 1909-September 30, 1910.

Locality.	Trade involved.	Date of strike.
Albany .....	Electrical workers*.....	May 2, 1910
	Knitters .....	Oct. 1, 1909
	Metal polishers§.....	March 21, 1910
	Molders .....	Jan. 10, 1910
	Motormen and conductors.....	May 27, 1910
	Painters .....	March 18, 1910
	Photo-engravers* .....	Oct. 7, 1909
	Building laborers.....	May 19, 1910
Buffalo .....	Grain elevator employees.....	Oct. 29, 1909
	Pattern makers§.....	March 30, 1910
	Stationary firemen§.....	June 14, 1910
	Tailors§ .....	May 27, 1910

LIST OF DISPUTES IN WHICH INTERVENTION OCCURRED — Continued.  
October 1, 1909–September 30, 1910.

Locality.	Trade involved.	Date of Strike.
Cohoes .....	Shoddy workers.....	May 16, 1910
	Textile workers§.....	Nov. 19, 1909
D. & H. Railroad.....	Track laborers and foremen†.....	July 2, 1910
Elmira .....	Motormen and conductors‡.....	July 1910
Hudson Falls .....	Paper bag workers§.....	Aug. 23, 1910
Jamestown .....	Carpenters .....	May 16, 1910
	Sheet metal workers*§.....	May 7, 1910
Lockport .....	Compositors§ .....	Dec. 17, 1909
Mt. Vernon and Tuckahoe..	Carpenters .....	April 1, 1910
New York City.....	Bakers .....	Feb. 18, 1910
	Bakers .....	May 1, 1910
	Boatmen .....	April 2, 1910
	Bricklayers .....	Sept. 27, 1910
	Butchers .....	Nov. 1, 1909
	Butchers .....	Nov. 1, 1909
	Butchers .....	Nov. 12, 1909
	Chauffeurs .....	May 23, 1910
	Cloak makers*.....	July 7, 1910
	Cordage workers.....	April 18, 1910
	Cork cutters .....	May 14, 1910
	Corset makers .....	July 26, 1910
	Dry goods clerks*.....	Oct. 15, 1909
	Foundry laborers .....	May 8, 1910
	Freight handlers .....	May 7, 1910
	Garment makers .....	Jan. 6, 1910
	Glass and brass workers.....	Nov. 10, 1909
	Glaziers .....	Sept. 19, 1910
	Housesmiths .....	May 25, 1910
	Housesmiths .....	Sept. 12, 1910
	Human hair workers.....	July 7, 1910
	Knee pants makers.....	Jan. 19, 1910
	Longshoremen .....	July 27, 1910
	Masters, mates and pilots.....	April 1, 1910
	Metal polishers .....	July 18, 1910
	Milk wagon drivers*.....	Jan. 13, 1910
	Molders .....	April 27, 1910
	Molders .....	May 2, 1910
	Mosaic workers*.....	Feb. 3, 1910
	Neckwear makers .....	Oct. 2, 1909
	Pants makers .....	Jan. 22, 1910
	Pie bakers .....	Oct. 10, 1909
	Plumbers' helpers .....	May 2, 1910
	Pressmen .....	May 26, 1910
	Sheet metal workers.....	July 18, 1910
	Shirt waist makers.....	Sept. 27, 1909
	Shirt waist makers†.....	Nov. 22, 1909
	Shirt waist makers.....	May 13, 1910
	Steam fitters†.....	Jan. 3, 1910
	Sugar weighers§.....	June 30, 1910
	Sugar refinery employees.....	March 28, 1910
	Sugar refinery employees.....	July 7, 1910
	Sugar refinery employees.....	July 22, 1910
	Suit case makers.....	March 1, 1910
	Suit case makers.....	March 30, 1910
	Tinware makers .....	Sept. 5, 1910
	Track laborers .....	May 6, 1910
	Trunk makers .....	April 3, 1910
	White goods makers§.....	Oct. 28, 1909
	Window cleaners .....	Nov. 22, 1909

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## LIST OF DISPUTES IN WHICH INTERVENTION OCCURRED—Continued. October 1, 1909–September 30, 1910.

Locality.	Trade involved.	Date of Strike.
New York State towns (7).	Paper and pulp workers.....	March 6, 1910
Plattsburg .....	Machinists and others§.....	July 19, 1910
Port Chester .....	Molders .....	Aug. 23, 1910
Rochester .....	Machinists .....	April 11, 1910
	Shoe cutters*.....	Jan. 7, 1910
	Street and sewer laborers§.....	June 6, 1910
Roslyn, L. I.....	Laborers .....	Dec. 1, 1909
Saratoga Springs .....	Silk weavers and cutters.....	Oct. 6, 1909
Schenectady .....	Electrical workers§.....	June 1, 1910
	Molders' helpers .....	May 2, 1910
	Painters* .....	April 1, 1910
	Foundry employees .....	Nov. 12, 1909
Syracuse .....	Garment workers .....	June 1, 1910
Troy and vicinity.....	Coal handlers .....	April 1, 1910
	Molders .....	July 21, 1910
	Painters .....	April 1, 1910
Utica .....	Building laborers .....	May 2, 1910
Westchester Co. ....	Stationary engineers .....	May 7, 1910
Yonkers .....	Hod carriers .....	June 9, 1910
	Machinists and others.....	June 6, 1910
	Motormen and conductors.....	June 15, 1910

It seems to me the foregoing record is a fearful indication of present lack of method or system in dealing with the subject of proper adjustment or prevention of disputes between employer and employed; that both the percentage and amount of lost industrial effort and energy is very nearly wanton waste and surely an exorbitant price to pay for a temporary truce, because we cannot justly call it more than that unless there be some evidence of change in either method or disposition or both. I regret to say that my observation during the past year has been that there has been very little of either in evidence in the industries most largely affected by the year's disputes. In nearly every instance in the larger disputes, arbitrary methods marked the inauguration and very often the conduct of the strike. It is only fair to say that usually each of the parties at direct interest were remiss in this respect. This was particularly true in the clothing disputes where each side set up the contention that their proposition was in fact an ultimatum. In other words, strikes were ordered before demands were presented on the part of employees; when they were presented, the employers often refused to deal with committees.

\* Two interventions.

† Three interventions.

‡ Threatened strike.

§ Request for intervention received.

because they represented a union; some employers refused to permit their employees to hold membership in a union; some unions refused to work unless the employer virtually compelled all of the employees to join a certain union. Very few of those contentions have been permanently disposed of, and only await a reawakening of sentiment or recovery of sufficient vitality and resources to renew the struggle.

It seems to me that this could and should be avoided, and I cannot let this occasion pass (as it will be the last opportunity to officially comment on this subject) without calling most careful and searching attention and scrutiny to the year's experience in the great steam railroad industry, with special reference to methods and results.

There is not sufficient space for even a comprehensive summary in this report but suffice it to say that, in no year in the history of our country have the railroad train service employees succeeded in securing such large increases in wages and material betterment of working conditions as in the year covered by this report, and at no time in the history of our railroads have the general relations between the railroad managements and their employees been more harmonious and satisfactory to each other than the present.

The increase in wages and betterment in working conditions were not only not granted voluntarily but were the subject of conference and contention for the greater part of the year, and in nearly every case the final adjustment was the result of an arbitration award.

Inasmuch as this particular industrial movement was interstate or almost nation-wide, I earnestly recommend that yourself and other commissioners of labor urge the Federal Department to provide a comprehensive history of it, for the educational value it will have to those who have not yet realized the wisdom of applying reason before resorting to force, or who do not yet understand that a fair contention does not lose its potency through publicity or discussion. The movement inaugurated last year, having for its object coöperation and the promotion of uniform methods between the separate states and the Federal Department dealing with the subject of labor disputes, seems to be at a standstill. I very much regret this condition and recommend that every reason-

able effort be made to revive interest in this subject, which seems to me to be more necessary with each succeeding year.

As you know, this report terminates my connection with this service. Therefore, I am leaving recommendations relating directly to the bureau to my successor, only taking the liberty to say that, compared with other years, I believe this has been a year of progress, and compared with other states, we are justified in the statement that the efforts and achievements of this bureau toward industrial peace were second to none, and it is only justice to add that whatever success we have had in improving the efficiency or increasing the volume of our work has been due to the character, loyalty and capacity of the bureau staff, together with your hearty coöperation.

Respectfully submitted,

(Signed) JOHN LUNDRIGAN,  
*Second Deputy Commissioner and Chief Mediator.*



# APPENDIX IV.

## GENERAL REPORT OF BUREAU OF MERCANTILE INSPECTION.

HON. JOHN WILLIAMS,  
*Commissioner of Labor, Albany, N. Y.*

SIR.—The following tables show with some detail the work of the Bureau of Mercantile Inspection for the year ended September 30, 1909.

### 1. WORK OF DEPUTY MERCANTILE INSPECTORS.

	1910.				Total, 1909.
	New York City.	Buffalo.	Rochester	Total.	
Regular inspections:					
Mercantile .....	3,511	672	365	4,548	6,543
Office .....	91	25	17	133	176
Hotel .....	6	2	.....	8	18
	<u>3,608</u>	<u>699</u>	<u>382</u>	<u>4,689</u>	<u>6,737</u>
Special inspections:					
Mercantile .....	452	45	39	536	502
Office .....	1	9	.....	10	4
Hotel .....	.....	1	.....	1	2
	<u>453</u>	<u>55</u>	<u>39</u>	<u>547</u>	<u>398</u>
Observations:					
Mercantile .....	3,265	867	224	4,356	5,013
Office .....	56	24	1	81	302
Hotel .....	5	8	1	14	153
	<u>3,326</u>	<u>899</u>	<u>226</u>	<u>4,451</u>	<u>5,468</u>
Investigations:					
Complaints .....	123	16	10	149	204
Compliances (number of establishments) .....	1,509	151	171	1,831	3,887
	<u>1,632</u>	<u>167</u>	<u>181</u>	<u>1,980</u>	<u>4,091</u>
Prosecutions begun† .....	<u>394</u>	<u>50</u>	<u>11</u>	<u>455</u>	<u>376</u>

† See detailed table of prosecutions below.

2. CHILDREN FOUND IN MERCANTILE ESTABLISHMENTS.

	14 TO 16 YEARS OF AGE EMPLOYED —				UNDER 14 YEARS. (illegally employed).		Total under 16.
	Legally.		Illegally.		Boys.	Girls.	
	Boys.	Girls.	Boys.	Girls.			
New York City....	797	847	937	142	381	13	3,117
Bronx .....	33	73	132	8	84	2	332
Brooklyn .....	74	150	158	44	75	2	503
Manhattan ....	690	624	634	89	214	9	2,260
Queens .....	.....	.....	13	1	4	.....	18
Richmond .....	.....	.....	.....	.....	4	.....	4
Buffalo .....	476	136	230	28	119	4	993
Rochester .....	71	134	294	29	191	3	722
Total .....	1,344	1,117	1,461	199	691	20	4,832

3. ORDERS ISSUED BY BUREAU OF MERCANTILE INSPECTION.

Orders. [With reference to section of Labor Law violated.]	Orders issued.	Compliances reported.
I. Administration.		
Post Law (§ 173).....	1	1
Keep employment certificates in separate file (§ 167).....	1	1
Keep register of children employed (§ 167).....	58	54
II. Sanitation.		
Allow forty-five minutes for noonday meal (§ 161).....	45	*56
Provide water-closet (§ 168).....	485	463
Provide separate water-closets (§ 168).....	131	98
Designate water-closets (§ 168).....	69	44
Clean water-closets (§ 168).....	376	323
Ventilate water-closet (§ 168).....	132	*138
Paint water-closet (§ 168).....	31	27
Light water-closet (§ 168).....	148	*156
Remove obscene writing and marking from water-closets (§ 168) .....	74	69
Screen water-closet (§ 168).....	93	72
Repair water-closet (§ 168).....	145	*158
Make water-closet accessible (§ 168).....	27	16
Repair plumbing (§ 168).....	78	44
Cell water-closet accessible (§ 168).....	1	1
Provide wash-room (§ 168).....	26	12
Paint wash-room (§ 168).....	4	1
Clean wash-room (§ 168) .....	25	12
Repair wash-room (§ 168).....	5	1
Make wash-room accessible (§ 168).....	2	
Clean lunch-room (§ 169).....	2	1
III. Children.		
Cease employing children under 16 over 54 hours per week or after 7:00 P. M. (§ 161).....	197	187
IV. Women and Minors.		
Cease employing females under 21 years over 10 hours per day or 60 hours per week (§ 161).....	196	159
Provide seats for females (§ 170).....	57	51
Totals .....	2,409	2,145

\* The excess of number of orders complied over number of orders issued, represents compliances during the fiscal year 1909-1910, with orders issued during the fiscal year 1908-1909.

## 4. SUMMARY OF PROSECUTIONS UNDER THE MERCANTILE LAW.

(RESULTS TO SEPT. 30, 1910.)

OFFENSE.	Number of cases.	Pend- ing.	Dis- missed or ac- quitted.	With- drawn.	Con- victed; sen- tence sus- pended.	Con- victed; fined.	Fines.
(A) PROCEEDINGS INSTITUTED BEFORE OCTOBER 1, 1909.							
I. Administration: Interfering with deputy mercantile inspector....	1	....	1	....	....	....	....
III. Children: Employing children under 14.....	11	....	1	....	5	5	\$105
Employing children under 16 without Board of Health certificate.....	*29	....	6	3	19	1	20
Employing children under 16 before 7 a. m. or after 7 p. m.....	20	....	5	....	10	5	130
IV. Women and Minors: Employing females under 21 after 10 p. m.....	5	....	2	....	3	....	....
Total.....	66	....	15	3	37	11	\$255

(B) PROCEEDINGS INSTITUTED IN CURRENT-YEAR.							
I. Administration: Interfering with deputy mercantile inspector....	1	....	....	....	1	....	....
II. Sanitation: Failure to provide water- closet.....	1	....	....	....	1	....	....
III. Children: Employing children under 14.....	166	12	16	....	85	53	\$1,195
Employing children under 16 without Board of Health certificate.....	†151	7	17	2	86	†39	920
Employing children under 16 before 7 a. m. or after 7 p. m.....	121	15	16	....	60	30	690
IV. Women and Minors: Employing females under 21 after 10 p. m.....	10	2	2	....	2	4	80
Employing females under 21 more than 60 hours per week.....	†4	....	1	....	†2	1	20
Employing women and minors in basement with- out permit.....	1	....	1	....	....	....	....
Total.....	455	36	53	2	237	127	\$2,905
Grand Total.....	521	36	68	5	274	138	\$3,160

\* Erroneously given as 30 in last year's report.

† Includes 1 case dismissed by magistrate in previous year, reopened by district attorney this year; defendant was fined \$20.

‡ Includes 2 cases dismissed by magistrate in previous year, reopened by district attorney this year.

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## 5. COMPLAINTS RECEIVED BY BUREAU OF MERCANTILE INSPECTION.

SUBJECT OF COMPLAINT.	Sustained.	Not sustained.	Total.	Thereof anonymous.
II. Sanitation.				
Lack of water-closets.....	7	3	10	2
Unclean water-closets .....	1	2	3	....
Lack of seats for females.....	9	5	14	6
Insufficient lunch hour.....	1	1	2	....
General unsanitary conditions.....	5	7	12	5
III. Children.				
Employment of children under 14...	32	18	50	21
Children 14 to 16 working without certificate .....	19	20	39	17
Children 14 to 16 working after 7:00 p. m. ....	2	2	4	....
Children 14 to 16 working over 54 hours per week.....	2	3	5	3
IV. Women and Minors.				
Women under 21 years working over 60 hours per week.....	4	6	10	7
Total .....	82	67	149	61

## WORK OF DEPUTY MERCANTILE INSPECTORS.

The work accomplished by the mercantile bureau for the year 1909-10 demonstrates, as did the work of the previous year, our inability to properly cover the cities under our jurisdiction with the present force of inspectors.

During the year there were 5,236 inspections, and 4,451 observations made. All the large stores have been inspected and patrolled. Such establishments as persist in violating the law in regard to the illegal employment of children, have also received attention. As far as possible the territory not covered last year was inspected.

## COMPLAINTS.

There were received during the year 149 complaints, as compared with 204 in the year 1908-9. Of the total 88 were signed by the persons making the complaints and 61 were anonymous. All received prompt attention; 82 were sustained and 67 were not sustained. The various subjects of complaints received are shown in Table 5 above.

## CHILD LABOR.

There were 2,371 children under sixteen years of age found illegally employed. Between fourteen and sixteen: 199 girls, 1,461 boys, total 1,660. Under fourteen years of age: 20 girls,

691 boys, total 711. There were also found legally employed under sixteen years of age, 1,117 girls, 1,344 boys, total 2,461; making a total of all children found employed of 4,832. This shows that 49.1 per cent of all children found working were illegally employed, as compared with 51.4 per cent for the previous year.

Proof of age was demanded, as provided in section 167, for 151 children apparently under sixteen years of age; 47 proved to be sixteen years of age or over; 20 proved to be between fourteen and sixteen years of age; 2 were under fourteen years of age; 81 left employment or were discharged for failing to prove their age.

I desire to call attention to the fact that many employers endeavor to coach the children to claim they are sixteen years of age, believing that in this way they can evade the law and the responsibility for employing such children. From the above figures one would not imagine there had been any decrease in the amount of child labor in places enumerated in section 161. However, there has been a marked improvement. There are still many merchants who deliberately violate the law in this respect, notwithstanding the fact that most of them know what the law requires. There is at present a large number of children illegally employed.

I wish to call attention to the amendment made to section 161, which reads, "Or as a messenger, usher or checker in places of amusement," which became operative October 1, 1910. This change does not meet all conditions. In enumerating the occupations we have failed to cover children selling or taking tickets, and there are many so employed in moving-picture shows.

We have received complaints regarding the employment of children in barber shops and boot-blackening establishments. We have no jurisdiction over these children. Numerous complaints were received from merchants, stating that they are prohibited from employing children under fourteen years of age, while many children of that age were permitted to sell newspapers and merchandise in the vicinity of their places of business after the hours prohibited in the law covering street trade. On investigation we found that many small children were permitted to sell newspapers and merchandise on the streets, in saloons and concert

halls until midnight. The children selling papers are covered by Article XV, but there is no provision in Articles XV or XI covering children selling merchandise who claim to be selling for themselves, but who in reality are selling for their parents or other persons. Owing to the deplorable condition existing at the summer resorts in New York City this past summer I called the attention of the police commissioner of New York City to such condition on July 20, 1910, and as a result of such correspondence, the following is part of Special Order No. 241, issued by the police commissioner on September 7, 1910:

"Official Order No. 241.

"New York, September 7, 1910.

"Police Department.

"No. 12 — Attention is called to Article XV of the Labor Law (Chapter 31 of the Consolidated Laws) of the State of New York, and particularly to section 224 thereof.

"Commanding officers of districts and precincts, are directed to see that the members of their respective commands are properly instructed with reference to the provisions of this law and its enforcement."

It is my opinion that the part of section 161 relative to the employment of children should be amended to include all children employed other than those employed in places defined as factories. I am also convinced that Article XV, covering street trades, should be so amended as to protect the morals of children of tender years.

#### HOURS OF LABOR.

During the year 196 orders were issued to reduce the hours of labor of females between sixteen and twenty-one years of age, and 159 compliances were secured. There were 197 orders issued to reduce the hours of labor of children under sixteen years of age, and 187 compliances secured. The orders issued do not show the real condition. Many employees will not tell the actual hours of labor for fear of losing their employment. The records of this bureau show that many females are compelled to work 84 hours per week.

The part of section 161 relative to the hours of labor of females from sixteen to twenty-one years of age, is one of the most difficult provisions of the law to enforce. The amendments made to this section by the last Legislature, which became operative on October 1, 1910, prohibiting work after 10 P. M. of any day, makes some improvement. It still provides that there shall not be more than ten hours' work in any one day "unless for the pur-

pose of making a shorter work day of some one day of the week." The claim is always made, when employees are found working over ten hours per day, that it is for the purpose of making a shorter day of some one day of the week. This compels the inspector to prove the total number of hours per week, and makes it much more difficult to prove. The provision calling for ten hours work between the hours of 7 A. M. and 10 P. M., allows a period of fifteen hours per day in which to perform ten hours work. Should a female between sixteen and twenty-one years of age be found working before 7 A. M. or after 10 P. M., it is not difficult to prove this fact in court. To prove the actual hours worked per day or week is almost impossible unless we secure the aid of the employee. The fear of losing their employment has deterred many employees from rendering assistance to the deputies of this bureau.

I would recommend that section 161 be amended so as to shorten the period in which females sixteen to twenty-one years of age are permitted to perform ten hours' work on all days other than Saturday; that no such female be employed or permitted to work more than six days or sixty hours in any one week, and that there shall be posted in a conspicuous place a notice stating the number of hours per day for each day of the week and the time such work begins and ends each day.

#### WASH-ROOMS AND WATER-CLOSETS.

The conditions regarding wash-rooms and water-closets in mercantile establishments have been greatly improved since this bureau has been enforcing the provisions of section 168, but it requires constant attention in order to have them kept in proper sanitary condition. There were 1,852 orders issued relative to wash-rooms and water-closets during the year, and 1,635 compliances secured, as compared with 3,346 orders issued the previous year, and 3,106 compliances secured. Table 3 above gives details as to this year's orders.

Section 168 requires that "suitable and proper wash-rooms and water-closets shall be provided in, adjacent to or connected with mercantile establishments where women and children are employed." The words "women and children" have given the bureau considerable trouble, it being contended that we have no jurisdiction where women only or children only are employed.

Under the provisions of this section we have no power to issue orders for wash-rooms or water-closets in offices or other places where women and children are employed, or in mercantile establishments where only males over sixteen years of age are employed. We have found conditions in many office buildings and other places as bad as any found in mercantile establishments. It is my opinion that section 168 should be amended, giving this bureau power to order proper toilet facilities in all places coming under the provisions of the law regardless as to whether they employ males or females. In many places employing males over sixteen years of age there are no toilet accommodations, and they should be provided in order to improve the sanitary condition of the premises.

#### SEATS FOR FEMALES.

The law requiring one seat for every three females is generally complied with. A total of 57 orders were issued to "provide seats for females and permit the use of same," and 51 compliances were secured. During the year we received 14 complaints relative to the use of seats; 9 were sustained and 5 not sustained. Section 170 reads "chairs, stools or other suitable seats." Where chairs or stools are used it is not easy to keep them properly distributed. In some of the larger stores this has been remedied by attaching permanently to each counter or table a sufficient number of adjustable seats. Chairs and stools have caused injury to patrons and employees, particularly when placed at bargain counters in the aisles of stores. We have advised against using them in such places.

While we have very little trouble to secure compliance with an order to provide a sufficient number of seats, it is a fact that some of the proprietors will not permit the employees to use them after they have provided the required number. We have contemplated prosecuting such employers. To do so we would have to rely on the evidence of the employees, who usually think more of their position than the enforcement of this section of the law, specially enacted for their benefit.

#### VENTILATION.

Section 171 provides that basements in mercantile establishments shall be properly ventilated. The basement of mercantile



establishments, however, is not the only part of the building that should be properly ventilated. Considering the large number of employees and patrons of such places there should be provision in the law requiring sufficient ventilation in all parts of buildings used as business offices or mercantile establishments, when the conditions show that such ventilation is necessary.

#### PROSECUTIONS.

Prosecutions for the year numbered 455, the subjects and results of which are shown in Table 4 above. Of these 419 were disposed of and 36 were pending September 30, 1910. In 127 cases fines were imposed amounting to \$2,905; 237 defendants were convicted or pleaded guilty and sentence was suspended; 18 were dismissed or acquitted in Special Sessions and 35 were dismissed by magistrates; 2 cases were withdrawn as witnesses had left the State. Fourteen of the defendants fined were convicted of the second offense.

On October 1, 1909, there were 66 cases pending which have been disposed of during the year. In 11 cases fines were imposed, amounting to \$255; 37 defendants were convicted or pleaded guilty and sentence was suspended; 14 were dismissed or acquitted in Special Sessions, and 1 was dismissed by magistrate.

Total amount of fines imposed during the year was \$3,160, as compared with \$1,815 for the previous year. In connection with prosecutions the deputies of the bureau spent 3,131 hours in court work.

#### ESCAPE IN CASE OF FIRE.

In the performance of our duties the inadequate means of escape in case of fire was forced upon our attention in many buildings. Although this is a matter over which the department has no jurisdiction it is, nevertheless, of grave importance.

This year there were inspected 166 mercantile and other establishments, each employing over one hundred persons. The maximum number of employees in one office was 1,714, and in one mercantile establishment 6,105. Many of the office buildings are considered fire-proof. In many of them there is not ample provision for escape in case of fire. In mercantile establishments the conditions are much more serious. Few of the buildings are fire-proof and it is questionable if any of them are properly equipped with exits and fire escapes from all parts of the buildings. It

should be borne in mind that even in the most modern building the fixtures and the merchandise exposed for sale are of the most inflammable nature. When you consider the precautions taken as to exits and escapes in theaters one must marvel that practically no attention has been given to mercantile establishments, many of which have as many or more employees than the average theater will seat, to say nothing of the thousands of patrons who with the employees are distributed all over the different parts of the building or buildings of such establishment.

It is a very conservative estimate to say that during the greater part of the day there are two patrons in these stores to each employee. This would mean that many of the large stores have more people within their buildings at one time than could be seated in Madison Square Garden. I have given this subject careful attention for two years and from conservative estimates know that some of the stores have, at many times during the year, twenty-five thousand persons in the store at one time, while during the Christmas season many of them will have fifty thousand or more. There are many employees and patrons in the basements of these stores, and in some of them it would be next to impossible to get them out in the event of fire.

In many of the large stores the main stairways adjoin the elevator shaft, and in some instances wind around elevators that are not enclosed in fireproof shafts. Such stairways would be useless in case of fire. One can see from casual observation that the aisle space in many of the stores is not sufficient for the number of persons using the same. The fact that permanent and temporary bargain counters are placed in the aisles would lead to serious trouble in case of fire or panic.

In cities of the first class the building code seems to give ample power to change existing conditions. Some one should be responsible for changing them in order to afford proper protection to the thousands of patrons and employees of such establishments, at least by properly designating all fire exits, having all doors open outward and providing ample means of escape from all parts of buildings.

Respectfully submitted,

(Signed) JAMES L. GERBON,  
*Mercantile Inspector.*

## APPENDIX V.

### INDEX OF BILLS AND LAWS RELATING TO LABOR IN THE LEGISLATIVE SESSION OF 1910.

Prepared by the Bureau of Labor Statistics.

[Explanation.— Only the principal purpose and final stage of each bill are indicated; identical bills in Senate and Assembly are recorded as one; bills enacted into law are described in italic type; numbers in parentheses are "Printed," the others "Introductory," numbers. Abbreviations used are: S. for Senate, A. for Assembly, and Com. for Committee.

For a review and the text of the labor laws enacted in 1910 see the Department of Labor Bulletin for June, 1910.]

#### ADMINISTRATION OF LABOR LAWS.

*To require report to Department of Labor of accidents to employees in the building industry, and to require employers in manufacturing, mining, quarrying and building industries to keep a record of accidents. Senator Wainwright, S. 686 (737) and Mr. C. W. Phillips, A. 1130 (1130, 1393). Approved June 24, as Chapter 155.*

*To increase salary of mercantile inspector in Department of Labor from \$2,000 to \$3,000. Senator Burlingame, S. 769 (834) and Mr. Lee, A. 1241 (1580). Approved June 20, as Chapter 516.*

*To provide for special district attorneys in each county of 100,000 or more inhabitants to prosecute violations of labor law. Mr. McGregor, A. 1259 (1606). Labor and Industries Com.*

#### HEALTH AND SAFETY.

##### FACTORIES.

*To require that factory floors shall be kept clean, to forbid expectoration thereon, and to require cuspidors and receptacles for waste in factories. Mr. Lee, A. 205 (206). Approved April 20, as Chapter 114.*

*To require drinking water in factories and to amend requirements of dressing-rooms for females and wash-rooms. Mr. C. W. Phillips, A. 670 (738, 1428, S. 1080). Approved May 6, as Chapter 229.*

*To add to the requirements that exhaust fans shall be provided in factories, requirement of their continuous use. Mr. C. W. Phillips, A. 698 (782, 1182). Approved April 19, as Chapter 106.*

*To prohibit obstructions to doors or windows in factories. Mr. Green, A. 405 (425, 1939, 2174, S. 1575). Approved June 9, as Chapter 461.*

*To amend generally the provisions of the labor law concerning ventilation and temperature in factories. Senator Davis, S. 883 (1008; 1488) and Mr. C. W. Phillips, A. 1401 (1881, 2467). Sen. Judiciary Com. and Ass. Labor and Industries Com.*

##### CONSTRUCTION WORK.

*To prevent accidents in connection with electric wires by requiring use of red glass insulators. Mr. Hackett, A. 537 (537). Electricity, Gas and Water Com.*

To require equipment of manhole covers in cities of the first class with automatic valves to prevent accumulation and explosion of gas in manholes. Mr. Hackett, A. 535 (571). Codes Com.

#### RAILWAYS.

To extend requirement of equipment of freight cars with air brakes from "a sufficient number" to "all" cars on each train. Mr. Hackett, A. 534 (570). Railroads Com.

To require signals at railroad tunnels for protection of employes on top of trains. Mr. Jackson, A. 1483 (2019). Railroads Com.

To require minimum number of employees in train crews. Mr. Tilley, A. 362 (378). Railroads Com.

To require minimum crew of three on light engines. Mr. Whitney, A. 478 (501). Reported by Railroads Com.

To authorize Public Service Commission to regulate number of employees in train crews. Mr. Filley, A. 573 (612). Railroads Com.

To change the age limit for train dispatchers from 18 to 21 years and to extend same to signalmen and telephone operators. Mr. Evans, A. 455 (480). Codes Com.

#### MISCELLANEOUS.

To regulate guarding and operation of elevators generally in cities of the first class. Mr. Boylan, A. 1537 (2135).

To prohibit placing of stationary firemen in charge of more than four boilers, or requiring them to perform other duties. Mr. Miller, A. 1280 (1633). Labor and Industries Com.

To incorporate the American Museum of Safety for study and promotion of means and methods of preventing industrial accidents. Senator Wainwright, S. 1137 (1526). Vetoed by the Governor.

#### WOMAN AND CHILD LABOR.

*To include among the prohibited employments for children under 16, the operation of drill presses, metal and paper cutting machines and corner-staying machines in paper box factories. Mr. C. W. Phillips, A. 704 (788, 1177). Approved as Chapter 107.*

*To increase the restrictions upon the hours of labor for minors and children as to night work and exemptions at Christmas time, and to extend such restrictions to bowling alleys and places of amusement. Senator Davis, S. 481 (506, 1356) and Mr. Weimert, A. 851 (992, 2315). Approved June 6, as Chapter 387.*

*To prohibit employment of minors under 21 in night messenger service. Mr. Murray, A. 997 (1193, 1826). Approved May 21, as Chapter 342.*

To extend the limitations upon the hours of work of children in mercantile establishments to bowling alleys. Mr. Weinstein, A. 675 (743). Labor and Industries Com.

To make violation of the Labor Law in regard to employment of children in street trades a misdemeanor. Mr. Fowler, A. 620 (676, 2209). Vetoed by the Governor.

To provide penalties for false statements as to age of children, and for failure to maintain sufficient ventilation after means are provided therefor. Mr. Lee, A. 206 (207, 1133, 1217). Passed Assembly; Senate Codes Com.

To reduce limitation upon the hours of work of women from 10 per day and 60 per week to 9 per day and 54 per week. Senator Mackenzie, S. 542 (580) and Mr. Feeley, A. 863 (1011, 1654). Sen. Judiciary Com. and Ass. Labor and Industries Com.

To prohibit employment of women at core making. Senator Allen, S. 570 (608) and Mr. Chanler, A. 797 (921). Sen. Judiciary Com. and Ass. Labor and Industries Com.

To modify for canneries the ten-hour law for women and minors. Mr. Boshart, A. 808 (941, 2236). Labor and Industries Com.

## HOURS OF WORK.

### HOURS.

*To amend the Public Health Law in regard to the practice of pharmacy, including amendment of section regulating hours of drug clerks. Senator Hill, S. 66 (66, 323, 384, 776, 835) and Mr. Whitney, A. 137 (137, 627, 752, 940, 1241, S. 1451, 1637). Approved June 8, as Chapter 422.*

To prevent withholding of payment on public contracts in case of violation of the eight-hour law until violation shall have been certified by the Commissioner of Labor after investigation and with opportunity for the contractor to file an answer. Senator Agnew, S. 950 (1126). Judiciary Com.

To make revocation of contract for violation of eight-hour law permissive instead of mandatory. Senator Agnew, S. 951 (1127). Judiciary Com.

### SUNDAY WORK.

To require at least one day of rest for employees each week and that at least three of the rest days in every nine weeks shall be on Sunday. Senator Agnew, S. 1165 (1631). Codes Com.

To amend the provision of the Penal Law permitting observance of some other than the first day of the week as a Sabbath. Mr. Oliver, A. 19 (19). Codes Com.

Similar bill by Mr. A. J. Levy, A. 463 (488, 1773). Third reading.

To amend the Penal Law relative to public traffic on Sunday. Mr. Lansing, A. 1389 (1870). Codes Com.

To make punishment for Sabbath breaking discretionary with the courts. Mr. Goldberg, A. 728 (827). Codes Com.

To create a special commission to investigate and report on Sunday laws, existing or needed. Senator Schultz (by request), S. 13 (13) and Mr. Goodspeed (by request), A. 810 (943). Sen. Fin. Com. and Ass. Ways and Means Com.

## LEGAL RIGHTS.

### EMPLOYERS' LIABILITY FOR ACCIDENTS.

*To amend the law in relation to employers' liability — Bill recommended by Special Commission. Senator Wainwright, S. 687 (738, 1209, 1466) and Mr. C. W. Phillips, A. 1129 (1392, 2205, 2318). Approved May 24, as Chap. 352.*

*To require compensation for accidents to employees in certain dangerous employments. Bill recommended by special commission on employers' liability. Senator Wainwright, S. 685 (736, 1208) and Mr. C. W. Phillips, A. 1131 (1394, 2210). Approved June 25, as Chapter 674.*

To amend law concerning employers' liability. Mr. Haines, A. 297 (311). Labor and Industries Com.

To require employers to provide indemnity insurance for injured employees. Mr. Garfein, A. 120 (120). Labor and Industries Com.

Similar bill by Mr. Garfein, A. 509 (541). Labor and Industries Com.

To require employer to inform employee of any defect in notice of injury required by employers' liability law. Senator Meade, S. 266 (268) and Mr. Whitley, A. 372 (388, 1938, 2109, S. 1498). Sen. Judiciary Com.

To eliminate from required notice of injury under the employers' liability law statement of cause of accident. Senator Brackett, S. 986 (1171). Judiciary Com.

#### WAGES.

To require testing by superintendent of weights and measures of all weighing devices used to determine compensation of employees. Mr. Lansing, A. 345 (361, 2311). Third reading.

To make the owner of certain classes of goods, when manufactured by a contractor, liable for the wages of employees of the contractor. Senator Wagner, S. 488 (514) and Mr. Jackson, A. 827 (960, 1774). Sen. Judiciary Com. and Ass. General Laws Com.

To give laborers priority over material men as well as over contractors or sub-contractors in case of liens\* for improvement of real property. Senator Brackett, S. 535 (573). Ass. Judiciary Com.

To require dating of loans on salaries on day loan is made and to compel lenders to file statement of such loans with county clerks. Mr. Joseph, A. 444 (469, 859, 1,231). Sen. Judiciary Com.

To prohibit loans on salaries at more than two per cent per month interest. Mr. Herrick, A. 494 (526). Codes Com.

#### GOVERNMENT EMPLOYEES.

*To authorize two weeks' vacation with pay for municipal employees in New York City.* Mr. Hoey, A. 128 (128, 2157, 2342. *Approved June 25, as Chapter 679.*

*To authorize two weeks' vacation with pay for all public employees, state or local.* Mr. Hoey, A. 1107 (1372, 1590, 1726, 1978). *Approved June 25, as Chapter 680.*

To authorize two weeks' vacation with pay for per diem state employees. Senator Cobb, S. 795 (888) and Mr. Merritt, A. 1292 (1659). Vetoed by the Governor.

*To require semi-monthly payment of salaries and wages of state employees.* Mr. Lansing, A. 37 (37, 774, S. 1183). *Approved May 17, as Chapter 316.*

To require weekly payment of salaries and wages of New York City employees. Mr. Hoey, A. 127 (127). Cities Com.

To permit payment of monthly salaries of New York City employees on and after the twentieth of each month. Senator Travis, S. 1145 (1554) and Mr. Green, A. 1728 (2607). Sen. Cities Com. and Ass. Cities Com.

To authorize payment of claims for overtime work of New York City dock and ferry employees. Senator Cronin, S. 323 (324) and Mr. Weber, A. 1227 (1566). Not accepted by mayor.

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\* Other bills to amend the lien law were introduced but are not here listed since they did not concern laborers or wage-earners especially.

To change compensation of axmen and laborers on state highway and barge canal work from \$2 per day to \$65 per month. Mr. Lansing, A. 432 (457, 1296, S. 1535). Vetoed by the Governor.

To increase the compensation of certain state hospital employees. Senator Brough, S. 820 (913, 1298) and Mr. Merritt, A. 1320 (1707, 2385). Vetoed by the Governor.

To increase compensation of employees in Willard State Hospital twenty per cent. Mr. Cosad, A. 586 (624). Ways and Means Com.

To increase compensation of employees in state armories in counties adjoining first class cities from \$3 to \$4 per day. Mr. Goodwin, A. 427 (447, 513). Military Affairs Com.

To fix compensation of women cleaners in state buildings. Mr. Lansing, A. 594 (635). Ways and Means Com.

Similar bill by Mr. Lansing, A. 864 (1012, 1719). Sen. Finance Com.

To make compensation of park drivers and hostlers in Brooklyn and Queens Boroughs of New York City the same as in Manhattan Borough. Mr. Farrell, A. 216 (217). Cities Com.

To add assistants to section and stable foremen in New York City street cleaning department to the uniformed force. Senator Gledhill, S. 838 (931) Mr. McGrath, A. 1153 (1436). Sen. Com. of the Whole.

To authorize permanent employment at annual salaries of mechanics and laborers by the City of New York. Mr. Hoey, A. 221 (226). Cities Com.

To authorize payment of compensation to injured employees of cities. Mr. Gillen, A. 401 (421). Cities Com.

To provide pensions for employees of state hospitals. Senator Davis, S. 959 (1135, 1430) and Mr. Merritt, A. 1500 (2085, 2546). Vetoed by Governor.

To create a commission to provide a retirement fund for New York City employees generally. Mr. Haines, A. 615 (656). Cities Com.

Similar bill by Mr. Conklin, A. 764 (870).

To provide pensions for stationary engine men in the employ of the City of New York. Senator Grady, S. 503 (536). Cities Com.

To provide pensions for street cleaners in New York City. Senator Gledhill, S. 523 (562) and Mr. McGrath, A. 523 (562). Sen. Cities Com. and Ass. Cities Com.

To provide a retirement fund for civil service employees in Buffalo. Mr. Mac Gregor, A. 27 (27). Cities Com.

#### PRISON LABOR.

To extend state-use system for products of prison labor to all penal institutions. Mr. Reed, A. 845 (986, 2,682). Ways and Means Com.

To amend law concerning compensation of prisoners for labor and to extend same to all penal institutions. Mr. Reed, A. 846 (987, 2683). Ways and Means Com.

To extend law requiring prisoners to labor to all penal institutions. Mr. Reed, A. 847 (988, 2684). Ways and Means Com.

#### INDUSTRIAL EDUCATION.

*To amend the Education Law generally including the articles concerning compulsory education and industrial schools, and providing for schools of agriculture, mechanic arts and home-making. Senator Davis, S. 546 (650)*

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and Mr. J. S. Phillips, A. 999 (1281, 1494). *Approved April 22, as Chapter 140.*

To amend the Education Law with reference to industrial and trade schools. Senator Hamilton, S. 183 (183) and Mr. Barden, A. 272 (280, 611, 662). Recalled from Governor.

### REGULATION OF TRADES OR OCCUPATIONS.

*To require licenses for moving picture machine operators. Senator Frawley, S. 521 (555) and Mr. Higgins, A. 994 (1190). Approved June 24, as Chapter 654.*

To provide for examination and registration of master electricians in cities. Mr. MacGregor, A. 624 (680). Cities Com.

Similar bill by Senator Travis, S. 771 (844) and Mr. H. E. Allen, A. 1373 (1818). Sen. Cities Com. and Ass. Cities Com.

To regulate plastering and provide for plastering inspectors of practical experience, in first class cities. Senator Harte, S. 592 (630) and Mr. Beck, A. 993 (1189).

To require licensing of master plumbers in first class villages as previously in cities. Mr. Goodwin, A. 492 (524, 1239, 1421, 1546). Sen. Com. of the Whole.

To require journeymen plumbers in cities to be licensed in the same manner as master plumbers under existing law. Mr. Neupert, A. 555 (591). Cities Com.

To require licensing of stationary engineers and firemen throughout the state. Senator Heacock, S. 498 (528) and Mr. Eveleth, A. 837 (978). Sen. Judiciary Com. and Ass. Labor and Industries Com.

To require licensing of stationary engineers in New York City. Mr. Doherty, A. 314 (330, 668). Cities Com.

To prohibit employment of chauffeurs under 21 years of age. Mr. Herick, A. 756 (862). Codes Com.

### INDUSTRIAL DISPUTES.

To create a separate State Board of Mediation and Arbitration in place of the existing Bureau of Mediation and Arbitration in the Department of Labor. Mr. Ward, A. 1464 (1971). Ways and Means Com.

### UNEMPLOYMENT.

*To amend the law concerning employment agencies in cities of the first and second classes and to extend the same to all cities. Senator Cobb, S. 445 (467) and Mr. Green, A. 795 (913, 1599, 1998, 2220, 2347, S. 1578, 1606, 2685). Approved June 25, as Chapter 700.*

Similar bill by Senator Cobb, S. 990 (1193, 1347). Judiciary Com.

*To appropriate \$20,000 for further work by the commission on employers' liability, causes of unemployment, etc. Senator Wainwright, S. 50 (50) and Mr. C. W. Phillips, A. 77 (77). Approved Feb. 11 as Chapter 5.*

To amend the law concerning employment agencies relative to theatrical employment agencies. Senator Wagner, S. 33 (33) and Mr. Green, A. 45 (45). Sen. Judiciary Com. and Ass. General Laws Com.

To compel employment agencies to investigate character of employers to whom girls under 18 are directed for employment and to report to the police



the names and addresses of all such applicants for work and prospective employers. Senator Gledhill, S. 753 (818, 1079) and Mr. Gerken, A. 1249 (1602). Sen. Judiciary Com. and Ass. Labor and Industries Com.

Similar bill by Mr. Boylan, A. 1480 (2051). General Laws Com.

To provide for a State Commissioner of the Unemployed. Senator Cronin, S. 342 (350) and Mr. O'Connor, A. 473 (496). Sen. Finance Com. and Ass. Ways and Means Com.

Similar bill but with provision for a special deputy in the Department of Labor, for the purpose. Senator Cronin, S. 698 (752) and Mr. O'Connor, A. 1159 (1442). Sen. Finance Com. and Ass. Ways and Means Com.

#### MISCELLANEOUS.

*To create in the Department of Labor a Bureau of Industries and Immigration with investigating and inspection powers for the protection of aliens and improvement of their condition. Senator Brough, S. 876 (1012, 1452) and Mr. Parker, A. 1402 (1882, 2531, S. 1562). Approved June 20, as Chapter 514.*

Similar bill but providing for a separate Department of Industries and Immigration. Mr. Parker, A. 54 (54). Ways and Means Com.

To require that all employees of public service corporations shall be citizens of the United States. Mr. McCue, A. 212 (213). Judiciary Com.

To provide for old age pensions. Mr. R. H. Clarke, A. 6 (6). Ways and Means Com.

To establish a commission to inquire into the high cost of living. Mr. Garfein, A. 1439 (1946). Motion to reconsider in Senate tabled, after adverse vote on third reading.

To require information concerning agricultural labor, etc, to be furnished to the Commissioner of Agriculture by town clerks and assessors as well as supervisors. Senator Platt, S. 829 (922) and Mr. Boshart, A. 1288 (1655). Ass. Agriculture Com.

**APPENDIX VI.**

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**LAWS RELATING TO LABOR IN FORCE OCTOBER 1,  
1910.**

**COMPILED BY THE BUREAU OF LABOR STATISTICS.**

NOTE.—The following compilation presents the several laws as they appear in the Consolidated Laws enacted in 1909 and 1910, or as since amended in which case references to all amending acts are given. For references to the sources, both original acts and amendments, of the various provisions as enacted in the Consolidated Laws, see the similar compilation in the Annual Report of the Commissioner of Labor for 1909 (Appendix VI).

## THE LABOR LAW.

CHAPTER 36 OF THE LAWS OF 1909, IN FORCE FEBRUARY 17, 1909. COMPILED  
WITH AMENDMENTS TO JANUARY 1, 1911.

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AN ACT relating to labor, constituting chapter thirty-one of the consolidated laws.

### CHAPTER 31 OF THE CONSOLIDATED LAWS.

#### LABOR LAW.

- Article
1. Short title; definitions (§§ 1, 2).
  2. General provisions (§§ 3-21).
  3. Department of labor (§§ 40-48).
  4. Bureau of labor statistics (§§ 55-57).
  5. Bureau of factory inspection (§§ 60-68).
  6. Factories (§§ 70-96).
  7. Tenement-made articles (§§ 100-105).
  8. Bakeries and confectioneries (§§ 110-115).
  9. Mines, tunnels and quarries and their inspection (§§ 120-136).
  10. Bureau of mediation and arbitration (§§ 140-148).
  - 10-a. Bureau of industries and immigration (§§ 151-156). [*Added in 1910.*]
  11. Employment of women and children in mercantile establishments (§§ 160-173).
  12. Bureau of mercantile inspection (§§ 180-184).
  13. Convict-made goods and duties of commissioner of labor relative thereto (§§ 190-195).
  14. Employer's liability (§§ 200-212).
  - 14-a. Workmen's compensation in certain dangerous employments (§§ 215-219-g). [*Added in 1910.*]
  15. Employment of children in street trades (§§ 220-226).
  16. Laws repealed; when to take effect (§§ 240, 241).

#### ARTICLE 1.

##### Short Title; Definitions.

- Section 1. Short title.  
2. Definitions.

§ 1. Short title.—This chapter shall be known as the "Labor Law."

§ 2. Definitions.—Employee. The term "employee," when used in this chapter, means a mechanic, workingman or laborer who works for another for hire.

Employer. The term "employer," when used in this chapter, means the person employing any such mechanic, workingman or laborer, whether the owner, proprietor, agent, superintendent, foreman or other subordinate.

Factory. The term "factory," when used in this chapter, shall be construed to include also any mill, workshop, or other manufacturing or business establishment where one or more persons are employed at labor.

**Mercantile Establishment.** The term "mercantile establishment," when used in this chapter, means any place where goods, wares or merchandise are offered for sale.

**Tenement House.** The term "tenement house," when used in this chapter, means any house or building, or portion thereof, which is rented, leased, let or hired out, to be occupied, or is occupied as the home or residence of three families or more living independently of each other, and doing their cooking upon the premises, and having a common right in the halls, stairways, yards, water-closets or privies, or some of them, and for the purposes of this chapter shall be construed to include any building on the same lot with any dwelling house and which is used for any of the purposes specified in section one hundred of this chapter.

Whenever, in this chapter, authority is conferred upon the commissioner of labor, it shall also be deemed to include his deputies or a deputy acting under his direction.

"Tenant factory" is defined in § 94, *post*. The definition of "tenement house" here differs slightly from that in the Tenement House Law, ch. 61, of the Consolidated Laws, § 2.

A commercial ice house using machinery, etc., is a "factory:" *Rabe v. Consol. Ice Co.*, 151 U. S. C. C. A. 535 (1902). Bakeries and confectioneries are "factories:" see § 114, *post*; also laundries, § 92, *post*.

## ARTICLE 2.

### General Provisions.

- Section 3. Hours to constitute a day's work.
4. Violations of the labor law.
  5. Hours of labor in brickyards.
  6. Hours of labor on street surface and elevated railroads.
  7. Regulation of hours of labor on steam surface and elevated railroads.
  8. Regulation of hours of labor of block system telegraph and telephone operators and signalmen on surface, subway and elevated railroads.
  9. Payment of wages by receivers.
  10. Cash payment of wages.
  11. When wages are to be paid.
  12. Penalty for violation of preceding section.
  13. Assignment of future wages.
  14. Preference in employment of persons upon public works.
  15. Labels, brands and marks used by labor organizations.
  16. Illegal use of labels, brands and marks, a misdemeanor; injunction proceedings.
  17. Seats for female employees.
  18. Scaffolding for use of employees.
  19. Inspection of scaffolding, ropes, blocks, pulleys and tackles in cities.
  20. Protection of persons employed on buildings in cities.
  - 20-a. Accidents to be reported [*Added in 1910*].
  21. Commissioner of labor to enforce provisions of article.

§ 3. Hours to constitute a day's work.—Eight hours shall constitute a legal day's work for all classes of employees in this state except those engaged in farm and domestic service unless otherwise provided by law. This section does not prevent an agreement for overwork at an increased compensation except upon work by or for the state or a municipal corporation, or by contractors or subcontractors therewith. Each contract to which the state or a municipal corporation or a commission appointed pursuant to law is a party which may involve the employment of laborers, workmen or mechanics

shall contain a stipulation that no laborer, workman or mechanic in the employ of the contractor, subcontractor or other person doing or contracting to do the whole or a part of the work contemplated by the contract shall be permitted or required to work more than eight hours in any one calendar day except in cases of extraordinary emergency caused by fire, flood or danger to life or property. The wages to be paid for a legal day's work as hereinbefore defined to all classes of such laborers, workmen or mechanics upon all such public works, or upon any material to be used upon or in connection therewith, shall not be less than the prevailing rate for a day's work in the same trade or occupation in the locality within the state where such public work on, about or in connection with which such labor is performed in its final or completed form is to be situated, erected or used. Each such contract hereafter made shall contain a stipulation that each such laborer, workman or mechanic, employed by such contractor, subcontractor or other person on, about or upon such public work, shall receive such wages herein provided for. Each contract for such public work hereafter made shall contain a provision that the same shall be void and of no effect unless the person or corporation making or performing the same shall comply with the provisions of this section; and no such person or corporation shall be entitled to receive any sum nor shall any officer, agent or employee of the state or of a municipal \*corporation pay the same or authorize its payment from the funds under his charge or control to any such person or corporation for work done upon any contract, which in its form or manner of performance violates the provisions of this section, but nothing in this section shall be construed to apply to persons regularly employed in state institutions, or to engineers, electricians and elevator men in the department of public buildings during the annual session of the legislature, nor to the construction, maintenance and repair of highways outside the limits of cities and villages. [*As amended by L. 1909, ch. 292.*]

The Legislature is expressly empowered to regulate conditions of employment on public work by the State Constitution, Article XII, § 1 (given under PUBLIC WORKS AND CONTRACTS, *post*).

The constitutionality of the section was sustained in 1904, so far as it relates to the *direct* employees of the state or of a municipality: *Ryan v. City of New York*, 177 N. Y. 271. The section is constitutional under both State and Federal constitutions: *People ex rel. Williams Engineering and Contracting Co. v. Metz*, 193 N. Y. 148 (1908). The United States Supreme Court has affirmed the constitutionality of a similar statute of Kansas (*Atkins v. Kansas*, 191 U. S. 207), and the eight-hour law of the United States (*Ellis v. U. S.*, 27 Sup. Ct. Rep. p. 600, 1907).

The section applies only to *public work* and not to "articles of common merchandise," or to "marketable commodities," like gas and electricity: *Downey v. Bender*, 57 App. Div. 310 (1901); see also the Attorney-General's opinion of June 26, 1906 (Report of Commissioner of Labor, 1906, Appendix V). The section does not apply to the manufacture of materials purchased by a contractor for public work: *Bohnen v. Metz*, 126 App. Div. 807, affirmed, 193 N. Y. 676. But an opinion of the Attorney-General (1909) holds that the section does apply to work such as the manufacture of a fire escape done by a contractor in his own factory. (Report of the Commissioner of Labor, 1909, p. 307.)

An armory is a state "institution" and therefore exempt from the provisions of the section: *Matter of Burns v. Fox*, 98 App. Div. 507 (Nov. 1904). Firemen are not "employees" within the meaning of the statute, which relates only to *mechanics* or *laborers* working for hire: *Sweeney v. Sturgis*, 78 App. Div. 460, affirmed (May, 1903), 175 N. Y. (Mem.). The wages clause does not apply to school janitors: *Farrell v. Board of Education*, 113 App. Div. 405.

\* So in original.

"Extraordinary emergency" is defined in *United States v. Sheridan Kirk Contract Co.*, U. S. Dist. Court, 149 Fed. Rep. 813; *Penn Bridge Co. v. United States*, Court of Appeals of D. C., 35 Wash. Law Reporter, 287. As to what constitutes overtime in case of emergency work on part of employees of municipal department of water supply, see *Grady v. City of New York*, 182 N. Y. 18 (May 30, 1905).

*Cf.* ten-hour law for bakeries in § 110, *post*.

§ 4. **Violations of the labor law.**—Any officer, agent or employee of this state or of a municipal corporation therein having a duty to act in the premises who violates, evades or knowingly permits the violation or evasion of any of the provisions of this chapter shall be guilty of malfeasance in office and shall be suspended or removed by the authority having power to appoint or remove such officer, agent or employee; otherwise by the governor. Any citizen of this state may maintain proceedings for the suspension or removal of such officer, agent or employee or may maintain an action for the purpose of securing the cancellation or avoidance of any contract which by its terms or manner of performance violates this chapter or for the purpose of preventing any officer, agent or employee of such municipal corporation from paying or authorizing the payment of any public money for work done thereupon.

See notes to § 3; also § 21, *post*; and Penal Law, § 1271, subd. 1, under **PENALTIES FOR VIOLATION OF THE LABOR LAW**, *post*.

§ 5. **Hours of labor in brickyards.**—Ten hours, exclusive of the necessary time for meals, shall constitute a legal day's work in the making of brick in brickyards owned or operated by corporations. No corporation owning or operating such brickyard shall require employees to work more than ten hours in any one day, or to commence work before seven o'clock in the morning. But overwork and work prior to seven o'clock in the morning for extra compensation may be performed by agreement between employer and employee.

Violation a misdemeanor: Penal Law, § 1271, subd. 3.

§ 6. **Hours of labor on street surface and elevated railroads.**—Ten consecutive hours' labor, including one-half hour for dinner, shall constitute a day's labor in the operation of all street surface and elevated railroads, of whatever motive power, owned or operated by corporations in this state, whose main line of travel or whose routes lie principally within the corporate limits of cities of the first and second class. No employee of any such corporation shall be permitted or allowed to work more than ten consecutive hours, including one-half hour for dinner, in any one day of twenty-four hours.

In cases of accident or unavoidable delay, extra labor may be performed for extra compensation.

Violation a misdemeanor: Penal Law, § 1271, subd. 2. Under former law, violation was not a crime: *People v. Phylfe*, 10 Crim. 246.

§ 7. **Regulation of hours of labor on steam surface and elevated railroads.**—Ten hours' labor, performed within twelve consecutive hours, shall constitute a legal day's labor in the operation of steam surface and elevated railroads owned and operated within this state, except where the mileage system of running trains is in operation. But this section does not apply to the performance of extra hours of labor by conductors, engineers, firemen and trainmen in case of accident or delay resulting therefrom. For each hour of

labor performed in any one day in excess of such ten hours, by any such employee, he shall be paid in addition at least one-tenth of his daily compensation.

No person or corporation operating a line of railroad of thirty miles in length or over, in whole or in part within this state, shall permit or require a conductor, engineer, fireman or trainman, who has worked in any capacity for twenty-four consecutive hours, to go again on duty or perform any kind of work, until he has had at least eight hours' rest.

Violation a misdemeanor (Penal Law, § 1271, subd. 4); also evidence of negligence in action for personal injuries sustained by employee, *Pellin v. N. Y. C. & H. R. R. Co.*, 102 App. Div. 71 (1905).

Constitutionality sustained on the ground that it is a reasonable exercise of the police power, "in view of the great danger to and even destruction of life and property which might result from the attempt of men who have become enfeebled by prolonged and exhaustive work, to control engines and cars in motion": *People v. Phyte*, 136 N. Y. 554.

§ 8. Regulation of hours of labor of block system telegraph and telephone operators and signalmen on surface, subway and elevated railroads.—The provisions of section seven of this chapter shall not be applicable to employees mentioned herein. It shall be unlawful for any corporation or receiver, operating a line of railroad, either surface, subway or elevated, in whole or in part in the state of New York, or any officer, agent or representative of such corporation or receiver to require or permit any telegraph or telephone operator who spaces trains by the use of the telegraph or telephone under what is known and termed the "block system" (defined as follows): Reporting trains to another office or offices or to a train dispatcher operating one or more trains under signals, and telegraph or telephone levermen who manipulate interlocking machines in railroad yards or on main tracks out on the lines or train dispatchers in its service whose duties substantially, as hereinbefore set forth, pertain to the movement of cars, engines or trains on its railroad by the use of the telegraph or telephone in dispatching or reporting trains or receiving or transmitting train orders as interpreted in this section, to be on duty for more than eight hours in a day of twenty-four hours, and it is hereby declared that eight hours shall constitute a day of employment for all laborers or employees engaged in the kind of labor aforesaid; except in cases of extraordinary emergency caused by accident, fire, flood or danger to life or property, and for each hour of labor so performed in any one day in excess of such eight hours, by any such employee, he shall be paid in addition at least one-eighth of his daily compensation. Any person or persons, company or corporation, who shall violate any of the provisions of this section, shall, on conviction, be fined in the sum of not less than one hundred dollars, and such fine shall be recovered by an action in the name of the state of New York, for the use of the state, which shall sue for it against such person, corporation or association violating this section, said suit to be instituted in any court in this state having appropriate jurisdiction. Such fine, when recovered as aforesaid, shall be paid without any deduction whatever, one-half thereof to the informer, and the balance thereof to be paid into the free school fund of the state of New York. The provisions of this section shall not apply to any part of a railroad where not more than eight regular passenger trains in twenty-four hours pass each way; provided, moreover, that where twenty freight trains pass each way



generally in each twenty-four hours then the provisions of this section shall apply, notwithstanding that there may pass a less number of passenger trains than hereinbefore set forth, namely eight.

The section is constitutional as a proper exercise of the police power and does not conflict with the U. S. law on the same subject: *New York v. Erie R. R. Co.*, 198 N. Y. 369.

**§ 9. Payment of wages by receivers.**—Upon the appointment of a receiver of a partnership or of a corporation organized under the laws of this state and doing business therein, other than a moneyed corporation, the wages of the employees of such partnership or corporation shall be preferred to every other debt or claim.

See also Debtor and Creditor Law, ch. 12 of the Consolidated Laws, §§ 27, 28, and Lien Law, § 13.

Term "employees" includes operatives and laborers (*Palmer v. Van Santvoord*, 153 N. Y. 612), traveling salesmen (*Matter of Fitzgerald*, 21 Misc. 226), book-keepers employed at salary of \$100 a month (*People v. Beveridge Brewing Co.*, 91 Hun, 313, and *Matter of Luxton & Black Co.*, 35 App. Div. 243), etc.

Term "wages" does not cover amounts credited to employees under a system of profit sharing (*Dolge v. Dolge*, 70 App. Div. 517).

**§ 10. Cash payment of wages.**—Every manufacturing, mining, quarrying, mercantile, railroad, street railway, canal, steamboat, telegraph and telephone company, every express company, every corporation engaged in harvesting and storing ice, and every water company, not municipal, and every person, firm or corporation, engaged in or upon any public work for the state or municipal corporation thereof, either as a contractor or a subcontractor therewith, shall pay to each employee engaged in his, their or its business the wages earned by such employee in cash. No such company, person, firm or corporation shall hereafter pay such employees in script, commonly known as store money-orders. No person, firm or corporation engaged in carrying on public work under contract with the state or with any municipal corporation of the state, either as a contractor or subcontractor therewith, shall, directly or indirectly, conduct or carry on what is commonly known as a company store, if there shall, at the time, be any store selling supplies within two miles of the place where such contract is being executed. Any person, firm or corporation violating the provisions of this section shall be guilty of a misdemeanor.

Penalty: See § 12, *post*, and Penal Law, § 1272, *post*.

On subject of constitutionality, see *Knoxville Iron Co. v. Harblson*, 183 U. S. 13, in which the United States Supreme Court sustained the Tennessee anti-truck law.

Payment by check is not a compliance with the section. (Opinion of Attorney-General in his report for 1899, p. 335).

**§ 11. When wages are to be paid.**—Every corporation or joint-stock association, or person carrying on the business thereof by lease or otherwise, shall pay weekly to each employee the wages earned by him to a day not more than six days prior to the date of such payment.

But every person or corporation operating a steam surface railroad shall, on or before the first day of each month, pay the employees thereof the wages earned by them during the first half of the preceding month ending with the fifteenth day thereof, and on or before the fifteenth day of each month pay the employees thereof the wages earned by them during the last half of the preceding calendar month.

Penalty: See § 12, *post*, and Penal Law, § 1272.

The semi-monthly pay law in the second paragraph of this section is constitutional as within the reserved power of the state to amend corporate charters: *N. Y. C. R. R. Co. v. Williams*, 199 N. Y. 108.

Any corporation operating a steam surface railroad and also engaged in mining or any other business than the operation of such surface railroad must pay its employees not engaged in operating such road in accordance with the general provisions of this section. (Opinion of Attorney-General, June 4, 1906.) Does not apply to a municipal corporation. (*People ex rel. Van Valkenburg v. Myers*, 33 N. Y. St. Rep. 18; *People v. City of Buffalo*, 57 Hun, 577.)

§ 12. **Penalty for violation of preceding section.**—If a corporation or joint-stock association, its lessee or other person carrying on the business thereof, shall fail to pay the wages of all its employees as provided in this article, it shall forfeit to the people of the state the sum of fifty dollars for each such failure, to be recovered by the commissioner of labor in his name of office in a civil action. [*As am'd by L. 1909, ch. 206.*]

Violation also a misdemeanor: Penal Law, § 1272.

§ 13. **Assignment of future wages.**—No assignment of future wages, payable weekly, or monthly in case of a steam surface railroad corporation, shall be valid if made to the corporation or association from which such wages are to become due, or to any person on its behalf, or if made or procured to be made to any person for the purpose of relieving such corporation or association from the obligation to pay weekly, or monthly in case of a steam surface railroad corporation. Charges for groceries, provisions or clothing shall not be a valid off-set for wages in behalf of any such corporation or association. No such corporation or association shall require any agreement from any employee to accept wages at other periods than as provided in this article as a condition of employment.

See Personal Property Law, § 42, under "Assignment of wages" under POLITICAL AND LEGAL RIGHTS, ETC., *post*.

§ 14. **Preference in employment of persons upon public works.**—In the construction of public works by the state or a municipality, or by persons contracting with the state or such municipality, only citizens of the United States shall be employed; and in all cases where laborers are employed on any such public works, preference shall be given citizens of the state of New York. In each contract for the construction of public works a provision shall be inserted, to the effect that, if the provisions of this section are not complied with, the contract shall be void. All boards, officers, agents or employees of cities of the first class of the state, having the power to enter into contracts which provide for the expenditure of public money on public works, shall file in the office of the commissioner of labor the names and addresses of all contractors holding contracts with said cities of the state. Upon the letting of new contracts the names and addresses of such new contractors shall likewise be filed. Upon the demand of the commissioner of labor a contractor shall furnish a list of the names and addresses of all subcontractors in his employ. Each contractor performing work for any city of the first class shall keep a list of his employees, in which it shall be set forth whether they are naturalized or native born citizens of the United States, together with, in case of naturalization, the date of naturalization and the name of the court where such naturalization was granted. Such lists and records shall be open to the inspection of the commissioner of labor. A

violation of this section shall constitute a misdemeanor and shall be punishable by a fine of not less than fifty dollars nor more than five hundred dollars, or by imprisonment for not less than thirty nor more than ninety days, or by both such fine and imprisonment.

The statute of 1894 making it a crime for a contractor with a municipal corporation for the construction of public works, to employ alien laborers thereon, was held in 1895 to be an unconstitutional invasion of personal rights and also a violation of a treaty of the United States with Italy: *People v. Warren*, 13 Misc. 618.

As to the preference clause, see *City of Chicago v. Hurlbut*, 68 N. E. 786 (1903); but Massachusetts enacted a law giving preference to resident labor in 1904 (ch. 311).

§ 15. Labels, brands and marks used by labor organizations.—A union or association of employees may adopt a device in the form of a label, brand, mark, name or other character for the purpose of designating the products of the labor of the members thereof. Duplicate copies of such device shall be filed in the office of the secretary of state, who shall, under his hand and seal, deliver to the union or association filing or registering the same a certified copy and a certificate of the filing thereof, for which he shall be entitled to a fee of one dollar. Such certificate shall not be assignable by the union or association to whom it is issued.

This act is constitutional and the infringement of a registered label will be restrained by injunction: *Perkins v. Heert*, 158 N. Y. 306.

§ 16. Illegal use of labels, brands and marks a misdemeanor; injunction proceedings.—A person who, (1) shall in any way use or display the label, brand, mark, name or other character, adopted by any such union or association as provided in the preceding section, without the consent or authority of such union or association; or (2) shall counterfeit or imitate any such label, brand, mark, name or other character, or knowingly sells or disposes of, or keeps or has in his possession with intent to sell or dispose of, any goods, wares merchandise or other products of labor, upon which any such counterfeit or imitation is attached, affixed, printed, stamped or impressed, or knowingly sells or disposes of, or keeps or has in his possession with intent to sell or dispose of any goods, wares, merchandise or other products of labor contained in any box, case, can or package, to which or on which any such counterfeit or imitation is attached, affixed, printed, painted, stamped or impressed, is guilty of a misdemeanor, and shall be punished by a fine of not less than one hundred dollars nor more than five hundred dollars, or by imprisonment for not less than three months nor more than one year, or by both such fine and imprisonment. After filing copies of such device, such union or association may also maintain an action to enjoin the manufacture, use, display or sale of counterfeit or colorable imitations of such device, or of goods bearing the same, or the unauthorized use or display of such device, or of goods bearing the same, and the court may restrain such wrongful manufacture, use, display or sale, and every unauthorized use or display by others of the genuine devices so registered and filed, if such use or display is not authorized by the owner thereof, and may award to the plaintiff such damages resulting from such wrongful manufacture, use, display or sale as may be proved, together with the profits derived therefrom.

Knowledge or intent is not an ingredient of an offense of counterfeiting a registered label: *Bulena v. Newman*, 10 Misc. 460. A colorable imitation of a union label, even though it have distinguishing words or names, contravenes this section: *Myrup v. Friedman*, 58 Misc. 323.

§ 17. **Seats for female employees.**—Every person employing females in a factory or as waitresses in a hotel or restaurant shall provide and maintain suitable seats for the use of such female employees, and permit the use thereof by such employees to such an extent as may be reasonable for the preservation of their health.

Violation is a misdemeanor: Penal Law, § 1273, *post*.

§ 18. **Scaffolding for use of employees.**—A person employing or directing another to perform labor of any kind in the erection, repairing, altering or painting of a house, building or structure shall not furnish or erect, or cause to be furnished or erected for the performance of such labor, scaffolding, hoists, stays, ladders or other mechanical contrivances which are unsafe, unsuitable or improper, and which are not so constructed, placed and operated as to give proper protection to the life and limb of a person so employed or engaged.

Scaffolding or staging swung or suspended from an overhead support, more than twenty feet from the ground or floor, shall have a safety rail of wood, properly bolted, secured and braced, rising at least thirty-four inches above the floor or main portions of such scaffolding or staging and extending along the entire length of the outside and the ends thereof, and properly attached thereto, and such scaffolding or staging shall be so fastened as to prevent the same from swaying from the building or structure.

Violation is a misdemeanor (Penal Law, § 1276, *post*), and renders master liable in case of injury to employees (§ 202, *post*).

The question of what constitutes a structure or a scaffold under this section is one to be decided according to the circumstances of each case and has led to numerous decisions. As to the general principles upon which these questions must be determined see *Caddy v. Interborough Rapid Transit Co.*, 195 N. Y. 415 (1909).

§ 19. **Inspection of scaffolding, ropes, blocks, pulleys and tackles in cities.**—Whenever complaint is made to the commissioner of labor that the scaffolding or the slings, hangers, blocks, pulleys, stays, braces, ladders, irons, or ropes of any swinging or stationary scaffolding used in the construction, alteration, repairing, painting, cleaning or pointing of buildings within the limits of a city are unsafe or liable to prove dangerous to the life or limb of any person, such commissioner of labor shall immediately cause an inspection to be made of such scaffolding, or the slings, hangers, blocks, pulleys, stays, braces, ladders, irons or other parts connected therewith. If, after examination, such scaffolding or any of such parts is found to be dangerous to life or limb, the commissioner of labor shall prohibit the use thereof, and require the same to be altered and reconstructed so as to avoid such danger. The commissioner of labor or deputy factory inspector making the examination shall attach a certificate to the scaffolding, or the slings, hangers, irons, ropes, or other parts thereof, examined by him, stating that he has made such examination, and that he has found it safe or unsafe, as the case may be. If he declares it unsafe, he shall at once, in writing, notify the person responsible for its erection of the fact, and warn him against the use thereof. Such notice may be served personally upon the person responsible for its erection, or by conspicuously affixing it to the scaffolding, or the part thereof declared to be unsafe. After such notice has been so served or affixed, the person responsible therefor shall immediately remove such scaffolding or part

thereof and alter or strengthen it in such manner as to render it safe, in the discretion of the officer who has examined it, or of his superiors. The commissioner of labor and any of his deputies whose duty it is to examine or test any scaffolding or part thereof, as required by this section, shall have free access, at all reasonable hours, to any building or premises containing them or where they may be in use. All swinging and stationary scaffolding shall be so constructed as to bear four times the maximum weight required to be dependent therefrom or placed thereon, when in use, and not more than four men shall be allowed on any swinging scaffolding at one time.

Violation is a misdemeanor (Penal Law, § 1277, *post*) and renders master liable in case of injury to employees (§ 202, *post*).

§ 20. Protection of persons employed on buildings in cities.— All contractors and owners, when constructing buildings in cities, where the plans and specifications require the floors to be arched between the beams thereof, or where the floors or filling in between the floors are of fireproof material or brickwork, shall complete the flooring or filling in as the building progresses, to not less than within three tiers of beams below that on which the iron work is being erected. If the plans and specifications of such buildings do not require filling in between the beams of floors with brick or fireproof material all contractors for carpenter work, in the course of construction, shall lay the under-flooring thereof on each story as the building progresses, to not less than within two stories below the one to which such building has been erected. Where double floors are not to be used, such contractor shall keep planked over the floor two stories below the story where the work is being performed. If the floor beams are of iron or steel, the contractors for the iron or steel work of buildings in course of construction or the owners of such buildings shall thoroughly plank over the entire tier of iron or steel beams on which the structural iron or steel work is being erected, except such spaces as may be reasonably required for the proper construction of such iron or steel work, and for the raising or lowering of materials to be used in the construction of such building, or such spaces as may be designated by the plans and specifications for stairways and elevator shafts. If elevators, elevating machines or hod-hoisting apparatus are used within a building in the course of construction, for the purpose of lifting materials to be used in such construction, the contractors or owners shall cause the shafts or openings in each floor to be enclosed or fenced in on all sides by a barrier at least eight feet in height, except on two sides which may be used for taking off and putting on materials, and those sides shall be guarded by an adjustable barrier not less than three nor more than four feet from the floor and not less than two feet from the edge of such shaft or opening. If a building in course of construction is five stories or more in height, no lumber or timber needed for such construction shall be hoisted or lifted on the outside of such building. The chief officer, in any city, charged with the enforcement of the building laws of such city and the commissioner of labor are hereby charged with enforcing the provisions of this section.

Violation is a misdemeanor (Penal Law, § 1277, *post*) and renders master liable in case of injury to employees (§ 202, *post*).

As to relative liability of owner and contractor, see *E. G. Rooney v. Brogan Construction Co.*, 194 N. Y. 32 (1909).

§ 20-a. Accidents to be reported.— The person in charge of any building, construction, excavating or engineering work of any description, including

the work of repair, alteration, painting or renovating, shall keep a correct record of all deaths, accidents or injuries sustained by any person working thereon, in such form as may be required by the commissioner of labor. Such record shall be open to the inspection of the commissioner of labor, and a copy thereof shall be furnished to the said commissioner on demand. Within forty-eight hours after the time of the accident, death or injury, a report thereof shall be made in writing to the commissioner of labor, stating as fully as possible the cause of the death or injury, and the place where the injured person has been sent, with such other or further information relative thereto as may be required by the said commissioner, who may investigate the causes thereof and require such precautions to be taken as will prevent the recurrence of similar happenings. No statement contained in any such report shall be admissible in evidence in any action arising out of the death or accident therein reported. [Added by L. 1910, ch. 155.]

Compare § 87 (factory accidents) and § 126 (mine and quarry accidents) *post*.

§ 21. Commissioner of labor to enforce provisions of article.—The commissioner of labor shall enforce all the provisions of this article. He shall investigate complaints made to him of violations of such provisions and if he finds that such complaints are well founded he shall issue an order directed to the person or corporation complained of, requiring such person or corporation to comply with such provisions. If such order is disregarded the commissioner of labor shall present to the district attorney of the proper county all the facts ascertained by him in regard to the alleged violation, and all other papers, documents or evidence pertaining thereto, which he may have in his possession. The district attorney to whom such presentation is made shall proceed at once to prosecute the person or corporation for the violations complained of, pursuant to this chapter and the provisions of the penal law. If complaint is made to the commissioner of labor that any person contracting with the state or a municipal corporation for the performance of any public work fails to comply with or evades the provisions of this article respecting the payment of the prevailing rate of wages, the requirements of hours of labor or the employment of citizens of the United States or of the state of New York, the commissioner of labor shall if he finds such complaints to be well founded, present evidence of such non-compliance to the officer, department or board having charge of such work. Such officer, department or board shall thereupon take the proper proceedings to revoke the contract of the person failing to comply with or evading such provisions.

### ARTICLE 3.

#### Department of Labor.

- Section 40. Commissioner of labor.  
 41. Deputy commissioners.  
 42. Bureaus.  
 43. Powers.  
 44. Salaries and expenses.  
 45. Sub-offices.  
 46. Reports.  
 47. Old records.  
 48. Counsel.

§ 40. Commissioner of labor.—There shall continue to be a department of labor the head of which shall be the commissioner of labor who shall be

appointed by the governor by and with the advice and consent of the senate and who shall hold office for a term of four years beginning on the first day of January of the year in which he is appointed. He shall receive an annual salary of five thousand dollars. He shall appoint all officers, clerks and other employees in the department of labor.

§ 41. **Deputy commissioners.**—The commissioner of labor shall forthwith upon entering upon the duties of his office appoint and may at pleasure remove two deputy commissioners of labor, who shall receive such annual salaries, not to exceed three thousand dollars each, as may be appropriated therefor. The powers hereinafter conferred upon the first and second deputy commissioners shall not include the appointment of officers, clerks or other employees in any of the bureaus of the department of labor.

§ 42. **Bureaus.**—The department of labor shall be divided into five bureaus as follows: Factory inspection, labor statistics, mediation and arbitration, industries and immigration, and mercantile inspection. [*As am'd by L. 1910, ch. 514.*]

§ 43. **Powers.**—1. The commissioner of labor, his deputies and their assistants and each special agent, deputy factory inspector, chief investigator, special investigators, mercantile inspector, or deputy mercantile inspectors may administer oaths and take affidavits in matters relating to the provisions of this chapter.

2. No person shall interfere with, obstruct or hinder by force or otherwise the commissioner of labor, his deputies, their assistants or the special agents, deputy factory inspectors, chief investigator, special investigators, the mercantile inspector, or deputy mercantile inspectors while in the performance of their duties, or refuse to properly answer questions asked by such officers pertaining to the provisions of this chapter, or refuse them admittance to any place where and when labor is being performed which is affected by the provisions of this chapter.

3. All notices, orders and directions of deputies, assistants, special agents, deputy factory inspectors, chief investigator, special investigators, the mercantile inspector, or deputy mercantile inspectors given in accordance with this chapter are subject to the approval of the commissioner of labor. And all acts, notices, orders, permits and directions by any provisions of this chapter directed to be performed or given by the factory inspector, chairman of the board of mediation and arbitration, chief investigator, special investigators, mercantile inspector or other officer of the department of labor may be performed or given by and in the name of the commissioner of labor and by any officer of the department thereunto duly authorized by such commissioner in the name of such commissioner.

4. The commissioner of labor may procure and cause to be used badges for himself and his subordinates in the department of labor while in the performance of their duties. [*As am'd by L. 1910, ch. 514.*]

§ 44. **Salaries and expenses.**—All necessary expenses incurred by the commissioner of labor in the discharge of his duties shall be paid by the state treasurer upon the warrant of the comptroller issued upon proper vouchers therefor. The reasonable and necessary traveling and other expenses of the deputy commissioners, their assistants, the special agents and statisticians, the deputy factory inspectors, chief investigator, the special investigators,

the mercantile inspectors, deputy mercantile inspectors, and other field officers of the department while engaged in the performance of their duties shall be paid in like manner upon vouchers approved by the commissioner of labor and audited by the comptroller. [*As am'd by L. 1910, ch. 514.*]

§ 45. Sub-offices.—The commissioner of labor may establish and maintain a sub-office in any city of the first class if in his opinion it be necessary. He may designate any one or more of his subordinates to take charge of and manage any such office, subject to his direction. The reasonable and necessary expenses of such office shall be paid as are other expenses of the commissioner of labor.

§ 46. Reports.—The commissioner of labor shall report annually to the legislature.

§ 47. Old records.—All statistics furnished to and all complaints, reports and other documentary matter received by the commissioner of labor pursuant to this chapter or any act repealed or superseded thereby may be destroyed by such commissioner after the expiration of six years from the time of the receipt thereof.

§ 48. Counsel.—The commissioner of labor may employ counsel in the department of labor to represent the department or to assist in the prosecution of actions or proceedings brought under the provisions of this chapter. Such counsel shall receive such compensation as may otherwise be provided by law.

#### ARTICLE 4.

##### Bureau of Labor Statistics.

Section 55. Bureau of labor statistics.

56. Duties and powers.

57. Statistics to be furnished upon request.

§ 55. Bureau of labor statistics.—There shall continue to be a bureau of labor statistics, which shall be under the immediate charge of a chief statistician; but subject to the direction and supervision of the commissioner of labor.

*Cf. § 42, ante.*

§ 56. Duties and powers.—The commissioner of labor shall collect, assort, systematize and present in annual reports to the legislature, statistical details in relation to all departments of labor in the state, especially in relation to the commercial, industrial, social and sanitary condition of workmen and to the productive industries of the state. He may subpoena witnesses, take and hear testimony, take or cause to be taken depositions and administer oaths.

Subpoena, how issued; Code of Civil Procedure, § 854; how served, *id.*, § 852; fees, *id.*, § 3318.

Duties and powers discussed, *People v. Peck*, 138 N. Y. 386, which held the Commissioner of Labor Statistics to be a public officer within the meaning of § 2050 of the Penal Law.

§ 57. Statistics to be furnished upon request.—The owner, operator, manager or lessee of any mine, factory, workshop, warehouse, elevator, foundry, machine shop or other manufacturing establishment, or any agent, superintendent, subordinate, or employee thereof, and any person employing or directing any labor affected by the provisions of this chapter, shall, when requested by the commissioner of labor, furnish any information in his pos-



session or under his control which the commissioner is authorized to require, and shall admit him to any place where labor is carried on which is affected by the provisions of this chapter for the purpose of inspection. All statistics furnished to the commissioner of labor pursuant to this article, may be destroyed by such commissioner after the expiration of two years from the time of the receipt thereof. A person refusing to admit such commissioner, or a person authorized by him, to any such establishment, or to furnish him any information requested, or who refuses to answer or untruthfully answers questions put to him by such commissioner, in a circular or otherwise, shall forfeit to the people of the state the sum of one hundred dollars for each refusal or untruthful answer given, to be sued for and recovered by the commissioner in his name of office. The amount so recovered shall be paid in to the state treasury.

#### ARTICLE 5.

##### Bureau of Factory Inspection.

Section 60. Factory inspector.

61. Deputies.

62. General powers and duties.

63. Reports.

67. Duties relative to apprentices.

68. Laws to be posted.

§ 60. **Factory inspector.**—There shall continue to be a bureau of factory inspection. The first deputy commissioner of labor shall be the factory inspector of the state and in immediate charge of this bureau, but subject to the direction and supervision of the commissioner of labor.

*Cf. § 42, ante.*

§ 61. **Deputies.**—The commissioner of labor may appoint from time to time not more than sixty persons as deputy factory inspectors, not more than ten of whom shall be women, and who may be removed by him at any time. The deputy factory inspectors may be divided into three grades, but not more than five shall be of the third grade. Each deputy inspector of the first grade shall receive an annual salary of one thousand dollars, each of the second grade an annual salary of one thousand two hundred dollars and each of the third grade an annual salary of one thousand five hundred dollars.

§ 62. **General powers and duties.**—1. The commissioner of labor may divide the state into districts, assign one or more deputy factory inspectors to each district, and may in his discretion transfer them from one district to another; he may assign any of them to inspect any special class or classes of factories or to enforce any special provisions of this chapter; and he may assign any one or more of them to act as clerks in any office of the department.

2. The commissioner of labor may authorize any deputy commissioner or assistant and any special agent or inspector in the department of labor to act as a deputy factory inspector with the full power and authority thereof.

3. The commissioner of labor, the first deputy commissioner of labor and his assistant or assistants and every deputy or acting deputy factory inspector may in the discharge of his duties enter any place, building or room where and when any labor is being performed which is affected by the provisions of this chapter and may enter any factory whenever he may have reasonable cause to believe that any such labor is being performed therein.

4. The commissioner of labor shall visit and inspect or cause to be visited and inspected the factories, during reasonable hours, as often as practicable, and shall cause the provisions of this chapter to be enforced therein.

5. Any lawful municipal ordinance,\* by-law or regulation relating to factories, in addition to the provisions of this chapter and not in conflict therewith, may be observed and enforced by the commissioner of labor.

The Commissioner of Labor may also assign duties to the inspectors of steam vessels when transferred by the Superintendent of Public Works in accordance with the Navigation Law (ch. 37 of the Consolidated Laws) as follows:

§ 3. Duties of superintendent of public works.—The superintendent of public works shall superintend the administration of the provisions of this article, appoint the inspectors provided for in this act and exercise supervision over them in the performance of their duties so far as the same relate to the administration and enforcement of the provisions of this article. During such periods of the year as in the judgment of the superintendent of public works, the services of the inspectors provided to be appointed by this article shall not be needed in the administration of the provisions of this article, he may, upon request of the commissioner of labor, for temporary periods, transfer such inspectors to the department of labor, and during the periods in which said inspectors are so transferred, they shall be subject to the jurisdiction of the commissioner of labor and subject to detail by him as experts in the administration of the labor law. The necessary traveling expenses of said inspectors while acting under the jurisdiction of the commissioner of labor shall be paid from the funds appropriated for the administration of the department of labor, and their salaries shall be paid, as hereinafter provided, by the superintendent of public works, their vouchers to be approved by the commissioner of labor.

§ 63. Reports.—The commissioner of labor shall make an annual report to the legislature of the operation of this bureau.

§ 67. Duties relative to apprentices.—The commissioner of labor shall enforce the provisions of the domestic relations law, relative to indenture of apprentices, and prosecute employers for failure to comply with the provisions of such indentures and of such law in relation thereto.

For the law concerning apprentices here referred to see "The Apprentice System" under INDUSTRIAL EDUCATION, *post*.

§ 68. Laws to be posted.—A copy or abstract of the provisions of this chapter applicable thereto, to be prepared and furnished by the commissioner of labor, shall be kept posted by the employer in a conspicuous place on each floor of every factory where persons are employed who are affected by the provisions thereof.

## ARTICLE 6.

### Factories.

[NOTE.—The Penal Law, § 1275 (*post*) makes it a misdemeanor to violate or refuse to comply with the provisions of this article, which are to be strictly construed. (*Murphy v. Bennett*, 11 App. Div. 298.)]

#### Section 70. Employment of minors.

71. Employment certificate how issued.

72. Contents of certificate.

73. School record, what to contain.

75. Report of certificates issued.

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\* With the possible exception of New York City ordinances (*City of New York v. Trustees of Sailors' Snug Harbor*, 85 App. Div. 355, *aff'd* 180 N. Y. 527, *mem.*, and *opinion* by Attorney-General, January 16, 1904).

## Section 76. Registry of children employed.

- 77. Hours of labor of children, minors and women.
- 78. Exceptions.
- 79. Enclosure and operation of elevators and hoisting shafts; inspection.
- 80. Stairs and doors.
- 81. Protection of employees operating machinery.
- 82. Fire escapes.
- 83. Commissioner of labor may order erection of fire escapes.
- 84. Walls and ceilings.
- 85. Size of rooms.
- 86. Ventilation.
- 87. Accidents to be reported.
- 88. Wash-room and water-closets.
- 89. Time allowed for meals.
- 90. Inspection of factory buildings.
- 91. Inspection of boilers in factories.
- 92. Laundries.
- 93. Prohibited employment of women and children.
- 94. Tenant-factories.
- 95. Unclean tenant-factories.
- 96. Definition of "custodian."

§ 70. **Employment of minors.**—No child under the age of fourteen years shall be employed, permitted or suffered to work in or in connection with any factory in this state. No child between the ages of fourteen and sixteen years shall be so employed, permitted or suffered to work unless an employment certificate issued as provided in this article shall have been theretofore filed in the office of the employer at the place of employment of such child.

Compare §§ 626-628 of the Compulsory Education Law under CHILD LABOR, *post*.

The prohibition is absolute; lack of intent or knowledge not a defense (opinion of Attorney-General, January 16, 1905; *City of New York v. Chelsea Jute Mills*, 43 Misc. 266, where it was held, March 24, 1904, that ignorance of the child's age and an honest belief on the part of the employer that it was over age, was no defense). But an officer of a corporation who has directed that no child shall be employed contrary to law is not liable if a subordinate, without his knowledge, illegally employs a child, *People v. Taylor*, 192 N. Y. 398 (1908).

Violation is a misdemeanor (Penal Law, § 1275, *post*) and *prima facie* evidence of negligence on the part of an employer in an action against him: *Marino v. Lehmalter*, 173 N. Y. 530; *Koester v. Rochester Candy Works*, 194 N. Y. 92 (1909); *Sitts v. Waiontha Co.*, 94 App. Div. 38; *Dragotto v. Plunkett*, 113 App. Div. 648; *Lee v. Sterling Silk Mfg. Co.*, 115 App. Div. 589 and 134 App. Div. 123; *Kenyon v. Sanford Mfg. Co.*, 199 App. Div. 570; *Fortune v. Hall*, 122 App. Div. 250; *Danaher v. American Mfg. Co.*, 126 App. Div. 385 (1908). *Cf.* also § 202, *post*.

The section does not apply to children employed in fields adjacent to canning factories, nor to sheds unconnected with such factories (opinion of Attorney-General, September 22, 1905).

§ 71. **Employment certificate how issued.**—Such certificate shall be issued by the commissioner of health or the executive officer of the board or department of health of the city, town or village where such child resides, or is to be employed, or by such other officer thereof as may be designated by such board, department or commissioner for that purpose, upon the application of the parent or guardian or custodian of the child desiring such employment. Such officer shall not issue such certificate until he has received, examined, approved and filed the following papers duly executed, *viz.*: The school record of such child properly filled out and signed as provided in this article; also evidence of age showing that the child is fourteen years old or upwards, which shall consist of the evidence thereof provided in one of the following subdivisions of this section and which shall be required in the order herein designated as follows:

(a) Birth certificate: A duly attested transcript of the birth certificate filed according to law with a registrar of vital statistics or other officer charged with the duty of recording births, which certificate shall be conclusive evidence of the age of such child.

(b) Certificate of graduation: A certificate of graduation duly issued to such child showing that such child is a graduate of a public school of the state of New York or elsewhere, having a course of not less than eight years, or of a school in the state of New York other than a public school, having a substantially equivalent course of study of not less than eight years' duration, in which a record of the attendance of such child has been kept as required by article twenty of the education law, provided that the record of such school shows such child to be at least fourteen years of age.

(c) Passport or baptismal certificate: A passport or a duly attested transcript of a certificate of baptism showing the date of birth and place of baptism of such child.

(d) Other documentary evidence: In case it shall appear to the satisfaction of the officer to whom application is made, as herein provided, for an employment certificate, that a child for whom such certificate is requested, and who has presented the school record, is in fact over fourteen years of age, and that satisfactory documentary evidence of age can be produced, which does not fall within any of the provisions of the preceding subdivisions of this section and that none of the papers mentioned in said subdivisions can be produced, then and not otherwise he shall present to the board of health of which he is an officer or agent, for its action thereon, a statement signed by him showing such facts, together with such affidavits or papers as may have been produced before him constituting such evidence of the age of such child, and the board of health, at a regular meeting thereof, may then, by resolution, provide that such evidence of age shall be fully entered on the minutes of such board, and shall be received as sufficient evidence of the age of such child for the purpose of this section.

(e) Physicians' certificates: In cities of the first class only, in case application for the issuance of an employment certificate shall be made to such officer by a child's parent, guardian or custodian who alleges his inability to produce any of the evidence of age specified in the preceding subdivisions of this section, and if the child is apparently at least fourteen years of age, such officer may receive and file an application signed by the parent, guardian or custodian of such child for physicians' certificates. Such application shall contain the alleged age, place and date of birth, and present residence of such child, together with such further facts as may be of assistance in determining the age of such child. Such application shall be filed for not less than ninety days after date of such application for such physicians' certificates, for an examination to be made of the statements contained therein, and in case no facts appear within such period or by such examination tending to discredit or contradict any material statement of such application, then and not otherwise the officer may direct such child to appear thereafter for physical examination before two physicians officially designated by the board of health, and in case such physicians shall certify in writing that they have separately examined such child and that in their opinion such child is at least fourteen years of age such officer shall accept such certificates as sufficient proof of the age of such child for the purposes of this section. In case the opinions

of such physicians do not concur, the child shall be examined by a third physician and the concurring opinions shall be conclusive for the purpose of this section as to the age of such child.

Such officer shall require the evidence of age specified in subdivision (a) in preference to that specified in any subsequent subdivision and shall not accept the evidence of age permitted by any subsequent subdivision unless he shall receive and file in addition thereto an affidavit of the parent showing that no evidence of age specified in any preceding subdivision or subdivisions of this section can be produced. Such affidavit shall contain the age, place and date of birth, and present residence of such child, which affidavit must be taken before the officer issuing the employment certificate, who is hereby authorized and required to administer such oath and who shall not demand or receive a fee therefor. Such employment certificate shall not be issued until such child further has personally appeared before and been examined by the officer issuing the certificate, and until such officer shall, after making such examination, sign and file in his office a statement that the child can read and legibly write simple sentences in the English language and that in his opinion the child is fourteen years of age or upwards and has reached the normal development of a child of its age, and is in sound health and is physically able to perform the work which it intends to do. In doubtful cases such physical fitness shall be determined by a medical officer of the board or department of health. Every such employment certificate shall be signed, in the presence of the officer issuing the same, by the child in whose name it is issued.

An amendment to the Penal Law, § 1275, subd. 8, *post*, makes it a misdemeanor to make a false statement in relation to an application for an employment certificate.

**§ 72. Contents of certificate.**—Such certificate shall state the date and place of birth of the child, and describe the color of the hair and eyes, the height and weight and any distinguishing facial marks of such child, and that the papers required by the preceding section have been duly examined, approved and filed and that the child named in such certificate has appeared before the officer signing the certificate and been examined.

**§ 73. School record, what to contain.**—The school record required by this article shall be signed by the principal or chief executive officer of the school which such child has attended and shall be furnished, on demand, to a child entitled thereto or to the board, department or commissioner of health. It shall contain a statement certifying that the child has regularly attended the public schools or schools equivalent thereto or parochial schools for not less than one hundred and thirty days during the twelve months next preceding his fourteenth birthday, or during the twelve months next preceding his application for such school record and is able to read and write simple sentences in the English language, and has received during such period instruction in reading, spelling, writing, English grammar and geography and is familiar with the fundamental operations of arithmetic up to and including fractions. Such school record shall also give the date of birth and residence of the child as shown on the records of the school and the name of its parent or guardian or custodian.

Compare §§ 629-630 of the Compulsory Education Law under CHILD LABOR, *post*.

**§ 75. Report of certificates issued.**—The board or department of health or health commissioner of a city, village or town, shall transmit, between the

first and tenth day of each month, to the office of the commissioner of labor a list of the names of the children to whom certificates have been issued.

§ 76. **Registry of children employed.**—Each person owning or operating a factory and employing children therein shall keep or cause to be kept in the office of such factory, a register, in which shall be recorded the name, birth-place, age and place of residence of all children so employed under the age of sixteen years. Such register and the certificate filed in such office shall be produced for inspection upon the demand of the commissioner of labor. On termination of the employment of a child so registered, and whose certificate is so filed, such certificate shall be forthwith surrendered by the employer to the child or its parent or guardian or custodian. The commissioner of labor may make demand on an employer in whose factory a child apparently under the age of sixteen years is employed or permitted or suffered to work, and whose employment certificate is not then filed as required by this article, that such employer shall either furnish him, within ten days, evidence satisfactory to him that such child is in fact over sixteen years of age, or shall cease to employ or permit or suffer such child to work in such factory. The commissioner of labor may require from such employer the same evidence of age of such child as is required on the issuance of an employment certificate; and the employer furnishing such evidence shall not be required to furnish any further evidence of the age of the child. A notice embodying such demand may be served on such employer personally or may be sent by mail addressed to him at said factory, and if served by post shall be deemed to have been served at the time when the letter containing the same would be delivered in the ordinary course of the post. When the employer is a corporation such notice may be served either personally upon an officer of such corporation, or by sending it by post addressed to the office or the principal place of business of such corporation. The papers constituting such evidence of age furnished by the employer in response to such demand shall be filed with the commissioner of labor and a material false statement made in any such paper or affidavit by any person shall be a misdemeanor. In case such employer shall fail to produce and deliver to the commissioner of labor within ten days after such demand such evidence of age herein required by him, and shall thereafter continue to employ such child or permit or suffer such child to work in such factory, proof of the giving of such notice and of such failure to produce and file such evidence shall be prima facie evidence in any prosecution brought for a violation of this article that such child is under sixteen years of age and is unlawfully employed.

§ 77. **Hours of labor of children, minors and women.**—1. No child under the age of sixteen years shall be employed or permitted to work in or in connection with any factory in this state before eight o'clock in the morning, or after five o'clock in the evening of any day, or for more than eight hours in any one day, or more than six days in any one week.

2. No male minor under the age of eighteen years shall be employed or permitted to work in any factory in this state more than six days or sixty hours in any one week, or for more than ten hours in any one day, except as hereinafter provided; nor between the hours of twelve midnight and four o'clock in the morning.

3. No female minor under the age of twenty-one years and no woman shall be employed or permitted to work in any factory in this state before six

o'clock in the morning, or after nine o'clock in the evening of any day, or more than six days or sixty hours in any one week; nor for more than ten hours in any one day except as hereinafter provided.

4. A printed notice, in a form which shall be furnished by the commissioner of labor, stating the number of hours per day for each day of the week required of such persons, and the time when such work shall begin and end, shall be kept posted in a conspicuous place in each room where they are employed. But such persons may begin their work after the time for beginning and stop before the time for ending such work, mentioned in such notice, but they shall not otherwise be employed, permitted or suffered to work in such factory except as stated therein. The terms of such notice shall not be changed after the beginning of labor on the first day of the week without the consent of the commissioner of labor. The presence of such persons in the factory at any other hours than those stated in the printed notice, or if no such notice be posted, before seven o'clock in the morning or after six o'clock in the evening, shall constitute *prima facie* evidence of a violation of this section.

5. In a factory wherein, owing to the nature of the work, it is practically impossible to fix the hours of labor weekly in advance the commissioner of labor, upon a proper application stating facts showing the necessity therefor, shall grant a permit dispensing with the notice hereinbefore required, upon condition that the daily hours of labor be posted for the information of employees and that a time book in a form to be approved by him, giving the names and addresses of all female employees and the hours worked by each of them in each day, shall be properly and correctly kept, and shall be exhibited to him or any of his subordinates promptly upon demand. Such permit shall be kept posted in such place in such factory as such commissioner may prescribe, and may be revoked by such commissioner at any time for failure to post it or the daily hours of labor or to keep or exhibit such time book as herein provided.

6. Where a female or male minor is employed in two or more factories or mercantile establishments in the same day or week the total time of employment must not exceed that allowed per day or week in a single factory or mercantile establishment; and any person who shall require or permit a female to work in a factory between the hours of six o'clock in the evening and seven o'clock in the morning in violation of the provisions of this subdivision of this section, with or without knowledge of the previous or other employment, shall be liable for a violation thereof.

Compare §§ 161 and 161-a, *post*.

The limitation of the working hours of women to sixty per week is constitutional: *People v. Howe*, Court of Special Sessions, Oct., 1906 (Report of Com. of Labor, 1906, p. 119; Department of Labor Bulletin, Dec., 1906, p. 483).

The prohibition of the employment of women over 21 years of age between 9 P. M. and 6 A. M. is unconstitutional: *People v. Williams*, 189 N. Y. 131 (1907).

§ 78. **Exceptions.**—1. A female sixteen years of age or upwards and a male between the ages of sixteen and eighteen may be employed in a factory more than ten hours a day:—(a) regularly in not to exceed five days a week, in order to make a short day or a holiday on one of the six working days of the week; (b) irregularly in not to exceed three days a week; provided that no such person shall be required or permitted to work more than twelve hours

in any one day or more than sixty hours in any one week, and that the provisions of the preceding section as to notice or time book be fully complied with.

2. In a prosecution for a violation of any provision of this or of the preceding section the burden of proving a permit or exception shall be upon the party claiming it.

§ 79. Inclosure and operation of elevators and hoisting shafts; inspection.—If, in the opinion of the commissioner of labor, it is necessary to protect the life or limbs of factory employees, the owner, agent or lessee of such factory where an elevator, hoisting shafts or well hole is used, shall cause, upon written notice from the commissioner of labor, the same to be properly and substantially inclosed, secured or guarded, and shall provide such proper traps or automatic doors so fastened in or at all elevator ways, except passenger elevators inclosed on all sides, as to form a substantial surface when closed and so constructed as to open and close by action of the elevator in its passage either ascending or descending. The commissioner of labor may inspect the cable, gearing or other apparatus of elevators in factories and require them to be kept in a safe condition. [*As am'd by L. 1909, ch. 299.*]

Violation is not only a misdemeanor (Penal Law, § 1275, subd. 4, *post*) but renders master liable in case of injury to employees (§ 202, *post*). The owner of a tenant factory cannot by any lease escape responsibility for observance of this section (§ 94, *post*; *Cf.* also note to section 86, *ante*).

§ 80. Stairs and doors.—Proper and substantial hand rails shall be provided on all stairways in factories. The steps of such stairs shall be covered with rubber, securely fastened thereon, if in the opinion of the commissioner of labor the safety of employees would be promoted thereby. The stairs shall be properly screened at the sides and bottom. All doors leading in or to any such factory shall be so constructed as to open outwardly where practicable, and shall not be locked, bolted or fastened during working hours. No door, window or other opening on any floor of any such factory shall be obstructed by stationary metal bars, grating or wire mesh. Any metal bars, grating, or wire mesh provided for any such doors, windows or openings, shall be so constructed as to be readily movable or removable from the interior in such a manner as to afford the free and unobstructed use of such doors, windows or opening for purposes of egress, in case of need. [*As am'd by L. 1910, ch. 461.*]

Violation both constitutes a misdemeanor (Penal Law, § 1275, *post*) and renders master liable in case of injury to employees (§ 202, *post*). In a tenant-factory both owner and occupant are responsible for observance of this section (§ 94, *post*; *Cf.* also note to § 86, *ante*.)

§ 81. Protection of employees operating machinery.—The owner or person in charge of a factory where machinery is used, shall provide, in the discretion of the commissioner of labor, belt shifters or other mechanical contrivances for the purpose of throwing on or off belts on pulleys. Whenever practicable, all machinery shall be provided with loose pulleys. All vats, pans, saws, planers, cogs, gearing, belting, shafting, set-screws and machinery, of every description shall be properly guarded. No person shall remove or make ineffective any safeguard around or attached to machinery, vats or pans, while the same are in use, unless for the purpose of immediately making repairs thereto, and all such safeguards so removed shall be promptly



replaced. All grinding, polishing or buffing wheels used in the course of the manufacture of articles of the baser metals shall be equipped with proper hoods and pipes and such pipes shall be connected to an exhaust fan of sufficient capacity and power to remove all matter thrown off such wheels in the course of their use. Such fan shall be kept running constantly while such grinding, polishing or buffing wheels are in operation; except that in case of wet grinding it is unnecessary to comply with this provision. All machinery creating dust or impurities shall be equipped with proper hoods and pipes and such pipes shall be connected to an exhaust fan of sufficient capacity and power to remove such dust or impurities; such fan shall be kept running constantly while such machinery is in use; except where, in case of wood-working machinery, the commissioner of labor, after first making and filing in the public records of his office a written statement of the reasons therefor, shall decide that it is unnecessary for the health and welfare of the operatives. If a machine or any part thereof is in a dangerous condition or is not properly guarded, the use thereof may be prohibited by the commissioner of labor and a notice to that effect shall be attached thereto. Such notice shall not be removed until the machine is made safe and the required safeguards are provided, and in the meantime such unsafe or dangerous machinery shall not be used. When in the opinion of the commissioner of labor it is necessary, the work-rooms, halls and stairs leading to the work-rooms shall be properly lighted, and in cities of the first class, if deemed necessary by the commissioner of labor, a proper light shall be kept burning by the owner or lessee in the public hallways near the stairs upon the entrance floor and upon the other floors on every work day in the year, from the time when the building is opened for use in the morning until the time it is closed in the evening, except at times when the influx of natural light shall make artificial light unnecessary. Such lights shall be independent of the motive power of such factory. [As am'd by L. 1909, ch. 299, and L. 1910, ch. 106.]

In absence of direction of factory inspector, failure to supply guards is not violation (*Knisley v. Pratt*, 75 Hun 323). But non-compliance with the section renders the master liable in case of injury to employees (§ 202, *post*). In a tenant-factory both owner and occupant are responsible for lighting of halls and stairs (§ 94, *post*; Cf. also note to § 86, *ante*).

§ 82. Fire escapes.—Such fire escapes as may be deemed necessary by the commissioner of labor shall be provided on the outside of every factory in this state consisting of three or more stories in height. Each escape shall connect with each floor above the first, and shall be of sufficient strength, well fastened and secured, and shall have landings or balconies not less than six feet in length and three feet in width, guarded by iron railings not less than three feet in height, embracing at least two windows at each story and connected with the interior by easily accessible and unobstructed openings. The balconies or landings shall be connected by iron stairs, not less than eighteen inches wide, with steps of not less than six inches tread, placed at a proper slant and protected by a well-secured handrail on both sides, and shall have a drop ladder not less than twelve inches wide reaching from the lower platform to the ground.

The windows or doors to the landing or balcony of each fire escape shall be of sufficient size and located as far as possible, consistent with accessibility,

from the stairways and elevator hatchways or openings, and a ladder from such fire escapes shall extend to the roof. Stationary stairs or ladders shall be provided on the inside of every factory from the upper story to the roof, as a means of escape in case of fire.

Penalty for non-compliance: see Penal Law, § 1275, subd. 4. Liability: see § 202, *post*. In a tenant-factory the owner alone is responsible for observance of this section (§ 94, *post*).

§ 83. Commissioner of labor may order erection of fire escapes.—Any other plan or style of fire escape shall be sufficient if approved in writing by the commissioner of labor. If there is no fire escape, or the fire escape in use is not approved by the commissioner of labor, he may, by a written order served upon the owner, proprietor or lessee of any factory, or the agent or superintendent thereof, or either of them, require one or more fire escapes to be provided therefor, at such locations and of such plan and style as shall be specified in such order. Within twenty days after the service of such order, the number of fire escapes required therein shall be provided, each of which shall be of the plan and style specified in the order, or of the plan and style described in the preceding section. If any of the doors, windows or other openings of any floor of any factory is obstructed by any form of stationary metal bars, gratings, or wire mesh, or if any metal obstruction or protective device for any such door, window or opening is not approved by the commissioner of labor, he shall, by a written order served upon the owner, proprietor or lessee of any factory, or the agent or superintendent thereof, or either of them, require such stationary bars, grating, mesh or other stationary obstruction to be forthwith removed. Immediately after the service of such order, the said stationary bars, grating or other obstruction shall be removed. [*As am'd by L. 1910, ch. 461.*]

In New York City jurisdiction over the subject of fire escapes is vested exclusively in the local superintendent of buildings: *City of New York v. Trustees of Sailors' Snug Harbor*, 85 App. Div. 355; *aff'd*, 180 N. Y. 527 (mem.). See also opinion of the Attorney-General, January 16, 1904 (Third General Report of the Department of Labor, p. 121).

In a tenant-factory the owner alone is responsible for observance of this section (§ 94, *post*).

§ 84. Walls, ceilings, floors and receptacles.—The walls and ceilings of each workroom in a factory shall be lime washed or painted, when in the opinion of the commissioner of labor, it will be conducive to the health or cleanliness of the persons working therein. Floors shall be maintained in a safe condition and shall be kept clean and sanitary at all times. No person shall spit or expectorate upon the walls, floors, or stairs of any building used in whole or in part for factory purposes. Sanitary cuspidors shall be provided, in the discretion of the commissioner of labor, in every workroom in a factory in such numbers as the commissioner of labor may determine. Such cuspidors shall be thoroughly cleaned daily. Suitable receptacles shall be provided and used for the storage of waste and refuse; such receptacles shall be maintained in a sanitary condition. [*As am'd by L. 1910, ch. 114.*]

In tenant-factories responsibility for cleanliness of halls, etc. is placed upon the owner by section 94, *post*.

*Of.* special requirements for bakeries in §§ 112 and 114, *post*; and for laundries in § 92.

§ 85. **Size of rooms.**—No more employees shall be required or permitted to work in a room in a factory between the hours of six o'clock in the morning and six o'clock in the evening than will allow to each of such employees, not less than two hundred and fifty cubic feet of air space; and, unless by a written permit of the commissioner of labor, not less than four hundred cubic feet for each employee, so employed between the hours of six o'clock in the evening and six o'clock in the morning, provided such room is lighted by electricity at all times during such hours, while persons are employed therein.

*Cf.* requirement as to height of ceilings in bakeries in § 112, *post*.

§ 86. **Ventilation.**—The owner, agent or lessee of a factory shall provide, in each workroom thereof, proper and sufficient means of ventilation, and shall maintain proper and sufficient ventilation; if excessive heat be created or if steam, gases, vapors, dust or other impurities that may be injurious to health be generated in the course of the manufacturing process carried on therein the room must be ventilated in such a manner as to render them harmless, so far as is practicable; in case of failure the commissioner of labor shall order such ventilation to be provided. Such owner, agent or lessee shall provide such ventilation within twenty days after the service upon him of such order, and in case of failure, shall forfeit to the people of the state, ten dollars for each day after the expiration of such twenty days, to be recovered by the commissioner of labor.

Section 94, *post*, makes the owner as well as occupant in a tenant-factory responsible for observance of this section and the owner of a factory building is liable for a violation of this section even though by the terms of a lease a tenant agrees to comply with the law: *People ex rel. Williams v. Eno*, 134 App. Div. 527.

*Cf.* special requirements for bakeries in §§ 111 and 114, *post*.

§ 87. **Accidents to be reported.**—The person in charge of any factory shall keep a correct record of all deaths, accidents or injuries sustained by any person therein or on the premises, in such form as may be required by the commissioner of labor. Such record shall be open to the inspection of the commissioner of labor and a copy thereof shall be furnished to the said commissioner on demand. Within forty-eight hours after the time of the accident, death or injury, a report thereof shall be made in writing to the commissioner of labor, stating as fully as possible the cause of the death or the extent and cause of the injury, and the place where the injured person has been sent, with such other or further information relative thereto as may be required by the said commissioner, who may investigate the causes thereof and require such precautions to be taken as will prevent the recurrence of similar happenings. No statement contained in any such report shall be admissible in evidence in any action arising out of the death or accident therein reported. [*As am'd by L. 1910, ch. 155.*]

Compare § 20-a, *ante*, (building accidents) and § 126, *post* (accidents in mines and quarries); also §§ 47, 66 and 94 of the Public Service Commissions Law (Ch. 48 of Consolidated Laws).

§ 88. **Drinking water, wash-room and water-closets.**—In every factory there shall be provided at all times for the use of employees, a sufficient supply of clean and pure drinking water. Such water shall be supplied through proper pipe connections with water mains through which is conveyed the water used for domestic purposes, or, from a spring or well or body of pure water; if such drinking water be placed in receptacles in the

factory, such receptacles shall be properly covered to prevent contamination and shall be thoroughly cleaned at frequent intervals. In every factory there shall be provided and maintained for the use of employees, suitable and convenient wash-rooms, adequately equipped with sinks and proper water service. Where females are employed, dressing or emergency rooms shall be provided for their use; each such room shall have at least one window opening to the outer air and shall be enclosed by means of solid partitions or walls. In brass and iron foundries suitable provision shall be made and maintained for drying the working clothes of persons employed therein. In every factory there shall be provided suitable and convenient water-closets for each sex, in such number as the commissioner of labor may determine. Such water-closets shall be properly screened, lighted, ventilated and kept clean and sanitary; the enclosure of each closet shall be kept clean and sanitary and free from all obscene writing or marking. The water-closets used by females shall be entirely separated from those used by males and the entrances thereto shall be effectively screened. The water-closets shall be maintained inside the factory whenever practicable and in all cases, when required by the commissioner of labor. [*As am'd by L. 1910, ch. 229.*]

In a tenant-factory the owner must provide water-closets, and the necessary plumbing and water to enable occupants to comply with all the provisions of this section (§ 94, *post*).

*Cf.* special requirements for bakeries in § 113, *post*.

§ 89. **Time allowed for meals.**—In each factory at least sixty minutes shall be allowed for the noon-day meal, unless the commissioner of labor shall permit a shorter time. Such permit must be in writing and conspicuously posted in the main entrance of the factory, and may be revoked at any time. Where employees are required or permitted to work overtime for more than one hour after six o'clock in the evening, they shall be allowed at least twenty minutes to obtain a lunch, before beginning to work overtime.

§ 90. **Inspection of factory buildings.**—The commissioner of labor, or other competent person designated by him, upon request, shall examine any factory outside of the cities of New York and Brooklyn, to determine whether it is in a safe condition. If it appears to him to be unsafe, he shall immediately notify the owner, agent or lessee thereof, specifying the defects, and require such repairs and improvements to be made as he may deem necessary. If the owner, agent or lessee shall fail to comply with such requirement, he shall forfeit to the people of the state the sum of fifty dollars, to be recovered by the commissioner of labor in his name of office.

In a tenant-factory the owner alone is responsible for observance of this section (§ 94, *post*).

§ 91. **Inspection of boilers in factories.**—All boilers used for generating steam or heat for factory purposes shall be kept in good order, and the owner, agent, manager or lessee of such factory shall have such boilers inspected by a competent person approved by the commissioner of labor once in six months, and shall file a certificate showing the result thereof in such factory office and a duplicate thereof in the office of the commissioner of labor. Each boiler or nest of boilers used for generating steam or heat for factory purposes shall be provided with a proper safety-valve and with steam and water gauges, to show, respectively, the pressure of steam and the height

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\* So in original.

of water in the boilers. Every boiler house in which a boiler or nest of boilers is placed, shall be provided with a steam gauge properly connected with the boilers, and another steam gauge shall be attached to the steam pipe in the engine house, and so placed that the engineer or fireman can readily ascertain the pressure carried. Nothing in this section shall apply to boilers in factories which are regularly inspected by competent inspectors acting under the authority of local laws or ordinances.

In a tenant-factory both owner and occupant are responsible for observance of this section (§ 94, *post*).

For annual inspection of boilers in New York City, see § 342 of the charter, given under topic "Inspection of steam boilers, etc." under LICENSING OF TRADES, *post*.

Inspection of boilers on steamboats is provided for by §§ 5-6 of the Navigation Law (ch. 37 of the Consolidated Laws).

Locomotive boiler inspection, see Railroad Law, § 72, given under "Inspection of Locomotive Boilers" under RAILWAY LABOR, *post*.

§ 92. **Laundries.**—A shop, room or building where one or more persons are employed in doing public laundry work by way of trade or for purposes of gain is a factory within the meaning of this chapter, and shall be subject to the visitation and inspection of the commissioner of labor and the provisions of this chapter in the same manner as any other factory. No such public laundry work shall be done in a room used for a sleeping or living room. All such laundries shall be kept in a clean condition and free from vermin and all impurities of an infectious or contagious nature. This section shall not apply to any female engaged in doing custom laundry work at her home for a regular family trade.

An hotel laundry is not a public laundry. Opinion of the Attorney-General, March 5 and September 28, 1906.

§ 93. **Prohibited employment of women and children.**—No child under the age of sixteen years shall be employed or permitted to work in operating or assisting in operating any of the following machines: circular or band saws, wood shapers, woodjointers, planers, sandpaper or wood polishing machinery; picker machines or machines used in picking wool, cotton, hair or any upholstering material; paper lace machines; burnishing machines in any tannery or leather manufactory; job or cylinder printing presses having motive power other than foot; woodturning or boring machinery; drill presses; metal or paper cutting machines; corner staying machines in paper box factories; stamping machines used in sheet metal and tinware manufacturing or in washer and nut factories; machines used in making corrugating rolls; steam boilers; dough brakes or cracker machinery of any description; wire or iron straightening machinery; rolling mill machinery, power punches or shears; washing, grinding or mixing machinery, \*calendar rolls in rubber manufacturing; or laundering machinery. No child under the age of sixteen years shall be employed or permitted to work at adjusting or assisting in adjusting any belt to any machinery; oiling or assisting in oiling; wiping or cleaning machinery; or in any capacity in preparing any composition in which dangerous or poisonous acids are used; or in the manufacture or packing of paints, dry colors, or red or white lead; or in dipping, dyeing or packing matches; or in the manufacture, packing or storing of powder, dynamite, nitro glycerine, compounds, fuses, or other explosives; or in or about any distillery, brewery, or any other establishment where malt or

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\* So in original.

alcoholic liquors are manufactured, packed, wrapped, or bottled; and no female under the age of sixteen shall be employed or permitted to work in any capacity where such employment compels her to remain standing constantly. No child under the age of sixteen years shall be employed or permitted to have the care, custody or management of or to operate an elevator either for freight or passengers. No person under the age of eighteen years shall be employed or permitted to have the care, custody or management of or to operate an elevator either for freight or passengers running at a speed of over two hundred feet a minute. No male person under eighteen years or woman under twenty-one years of age shall be permitted or directed to clean machinery while in motion. No male child under the age of eighteen years, nor any female, shall be employed in any factory in this state in operating or using any emery, tripoli, rouge, corundum, stone, carborundum or any abrasive, or emery polishing or buffing wheel, where articles of the baser metals or of iridium are manufactured. [As am'd by L. 1909, ch. 299, and L. 1910, ch. 107.]

Children may not assume the obvious risks of operating dangerous machinery contrary to this section, violation of which is *prima facie* evidence of negligence. *Gallenkamp v. Garvin Machine Co.*, 179 N. Y. 588, reversing 91 App. Div. 141, on dissenting opinion below; and *Rahn v. Standard Optical Co.*, 110 App. Div. 501. See also § 202, *post*.

§ 94. Tenant-factories.—A tenant-factory within the meaning of the term as used in this chapter is a building, separate parts of which are occupied and used by different persons, companies or corporations, and one or more of which parts is so used as to constitute in law a factory. The owner, whether or not he is also one of the occupants, instead of the respective lessees or tenants, shall be responsible for the observance and punishable for the non-observance of the following provisions of this article, anything in any lease to the contrary notwithstanding.—namely, the provisions of sections seventy-nine, eighty, eighty-two, eighty-three, eighty-six, ninety and ninety-one, and the provisions of section eighty-one with respect to the lighting of halls and stairways; except that the lessees or tenants also shall be responsible for the observance and punishable for the nonobservance of the provisions of sections seventy-nine, eighty, eighty-six and ninety-one within their respective holdings. The owner of every tenant-factory shall provide each separate factory therein with water-closets in accordance with the provisions of section eighty-eight, and with proper and sufficient water and plumbing pipes and a proper and sufficient supply of water to enable the tenant or lessee thereof to comply with all the provisions of said section. But as an alternative to providing water-closets within each factory as aforesaid, the owner may provide in the public hallways or other parts of the premises used in common, where they will be at all times readily and conveniently accessible to all persons employed on the premises not provided for in accordance with section eighty-eight, separate water-closets for each sex, of sufficient numbers to accommodate all such persons. Such owner shall keep all water-closets located as last specified at all times provided with proper fastenings, and properly screened, lighted, ventilated, clean, sanitary and free from all obscene writing or marking. Outdoor water-closets shall only be permitted where the commissioner of labor shall decide that they are necessary or preferable, and they shall then be provided in

all respects in accordance with his directions. The owner of every tenant-factory shall keep the entire building well drained and the plumbing thereof in a clean and sanitary condition; and shall keep the cellar, basement, yards, areas, vacant rooms and spaces, and all parts and places used in common in a clean, sanitary and safe condition, and shall keep such parts thereof as may reasonably be required by the commissioner of labor properly lighted at all hours or times when said building is in use for factory purposes. The term "owner" as used in this article shall be construed to mean the owner or owners of the freehold of the premises, or the lessee or jointlessees of the whole thereof, or his, her or their agent in charge of the property. The lessee or tenant of any part of a tenant-factory shall permit the owner, his agents and servants, to enter and remain upon the demised premises whenever and so long as may be necessary to comply with the provisions of law, the responsibility for which is by this section placed upon the owner; and his failure or refusal so to do shall be a cause for dispossessing said tenant by summary proceedings to recover possession of real property, as provided in the code of civil procedure. And whenever by the terms of a lease any lessee or tenant shall have agreed to comply with or carry out any of such provisions, his failure or refusal so to do shall be a cause for dispossessing said tenant by summary proceedings as aforesaid. Except as in this article otherwise provided the person or persons, company or corporation conducting or operating a factory whether as owner or lessee of the whole or of a part of the building in which the same is situated or otherwise, shall be responsible for the observance and punishable for the nonobservance of the provisions of this article, anything in any lease or agreement to the contrary notwithstanding.

**§ 95. Unclean tenant-factories.**—If the commissioner of labor finds evidence of contagious disease present in any tenant-factory in which any of the articles enumerated in section one hundred hereof are manufactured, altered, repaired or finished he shall affix to any such articles exposed to such contagion a label containing the word "unclean" and shall notify the local board of health, who may disinfect such articles and thereupon remove such label. If the commissioner of labor finds any of the articles specified, in said section in any workroom or factory in a tenant-factory which is foul, unclean or unsanitary, he may, after first making and filing in the public records of his office a written order stating the reasons therefor, affix to such articles a label containing the word "unclean." No one but the commissioner of labor shall remove any label so affixed; and he may refuse to remove it until such articles shall have been removed from such factory and cleaned, or until such room or rooms shall have been cleaned or made sanitary.

Formerly L. 1897, ch. 415, § 95, as added by L. 1906, ch. 178, § 1.

**§ 96. Definition of "custodian."**—The word "custodian" as used in this article shall include any person, organization or society having the custody of a child.

## ARTICLE 7.

**Tenement-Made Articles.**

[NOTE.—An earlier statute (L. 1884, ch. 272), which attempted to prohibit the manufacture of cigars in tenements, was declared unconstitutional (*Matter of Jacobs*, 98 N. Y. 98). Violation is a misdemeanor (Penal Law, § 1275, subd. 5, post). "Tenement house" is defined in § 2, ante.]

Section 100. Manufacturing, altering, repairing or finishing articles in tenements.

101. Register of persons to whom work is given.

102. Goods unlawfully manufactured to be labeled.

103. Powers and duties of boards of health relative to tenement-made articles.

104. Inspection of articles manufactured in other states.

105. Owners of tenement and dwelling houses not to permit the unlawful use thereof.

§ 100. Manufacturing, altering, repairing or finishing articles in tenements.

—1. No tenement-house nor any part thereof shall be used for the purpose of manufacturing, altering, repairing or finishing therein, any coats, vests, knee-pants, trousers, overalls, cloaks, hats, caps, suspenders, jerseys, blouses, dresses, waists, waistbands, underwear, neckwear, furs, fur trimmings, fur garments, skirts, shirts, aprons, purses, pocket-books, slippers, paper boxes, paper bags, feathers, artificial flowers, cigarettes, cigars, umbrellas, or articles of rubber, nor for the purpose of manufacturing, preparing or packing macaroni, spaghetti, ice cream, ices, candy, confectionery, nuts or preserves, without a license therefor as provided in this article. But nothing herein contained shall apply to collars, cuffs, shirts or shirt waists made of cotton or linen fabrics that are subjected to the laundrying process before being offered for sale.

2. Application for such a license shall be made to the commissioner of labor by the owner of such tenement-house, or by his duly authorized agent. Such application shall describe the house by street number or otherwise, as the case may be, in such manner as will enable the commissioner of labor easily to find the same; it shall also state the number of apartments in such house; it shall contain the full name and address of the owner of the said house, and shall be in such form as the commissioner of labor may determine. Blank applications shall be prepared and furnished by the commissioner of labor.

3. Upon receipt of such application the commissioner of labor shall consult the records of the local health department or board, or other appropriate local authority charged with the duty of sanitary inspection of such houses; if such records show the presence of any infectious, contagious or communicable disease, or the existence of any uncomplished orders or violations which indicate the presence of unsanitary conditions in such house, the commissioner of labor may, without making an inspection of the building, deny such application for a license, and may continue to deny such application until such time as the records of said department, board or other local authority show that the said tenement-house is free from the presence of infectious, contagious or communicable disease, and from all unsanitary conditions. Before, however, any such license is granted, an inspection of the building sought to be licensed must be made by the commissioner of labor, and a statement must be filed by him as a matter of public record, to the effect that the records of the local health department or board or other



appropriate authority charged with the duty of sanitary inspection of such houses show the existence of no infectious, contagious or communicable disease nor of any unsanitary conditions in the said house; such statement must be dated and signed in ink with the full name of the employee responsible therefor. A similar statement similarly signed, showing the results of the inspection of the said building, must also be filed in the office of the commissioner of labor before any license is granted. If the commissioner of labor ascertain that such building is free from infectious, contagious or communicable disease, that there are no defects of plumbing that will permit the free entrance of sewer air, that such building is in a clean and proper sanitary condition and that the articles specified in this section may be manufactured therein under clean and healthful conditions, he shall grant a license permitting the use of such building, for the purpose of manufacturing, altering, repairing or finishing such articles.

4. Such license may be revoked by the commissioner of labor if the health of the community or of the employees requires it, or if the owner of the said tenement-house, or his duly authorized agent, fails to comply with the orders of the commissioner of labor within ten days after the receipt of such orders, or if it appears that the building to which such license relates is not in a healthy and proper sanitary condition. In every case where a license is revoked or denied by the commissioner of labor the reasons therefor shall be stated in writing, and the records of such revocation or denial shall be deemed public records. Where a license is revoked, before such tenement-house can again be used for the purposes specified in this section, a new license must be obtained, as if no license had previously existed.

5. Every tenement-house and all the parts thereof in which any of the articles named in this section are manufactured, altered, repaired or finished shall be kept in a clean and sanitary condition and shall be subject to inspection and examination by the commissioner of labor, for the purpose of ascertaining whether said garments or articles, or part or parts thereof, are clean and free from vermin and every matter of an infectious or contagious nature. An inspection shall be made by the commissioner of labor of each licensed tenement-house not less than once in every six months, to determine its sanitary condition, and shall include all parts of such house and the plumbing thereof. Before making such inspection the commissioner of labor may consult the records of the local department or board charged with the duty of sanitary inspection of tenement-houses, to determine the frequency of orders issued by such department or board in relation to the said tenement-house, since the last inspection of such building was made by the commissioner of labor. Whenever the commissioner of labor finds any unsanitary condition in a tenement-house for which a license has been issued as provided in this section, he shall at once issue an order to the owner thereof directing him to remedy such condition forthwith. Whenever the commissioner of labor finds any of the articles specified in this section manufactured, altered, repaired or finished, or in process thereof, in a room or apartment of a tenement-house, and such room or apartment is in a filthy condition, he shall notify the tenants thereof to immediately clean the same, and to maintain it in a cleanly condition at all times; where the commissioner of labor finds such room or apartment to be habitually kept in a filthy condition, he may in his discretion cause to be affixed to the entrance door of such apartment a

placard calling attention to such facts and prohibiting the manufacture, alteration, repair or finishing of said articles therein. No person, except the commissioner of labor, shall remove or deface any such placard so affixed.

See provision for "tagging" of infected or unclean goods specified in this section, in tenant-factories in § 94, *ante*.

6. None of the articles specified in this section shall be manufactured, altered, repaired or finished in any room or apartment of a tenement-house where there is or has been a case of infectious, contagious or communicable disease in such room or apartment, until such time as the local department or board of health shall certify to the commissioner of labor that such disease has terminated, and that said room or apartment has been properly disinfected, if disinfection after such disease is required by the local ordinances, or by the rules or regulations of such department or board. None of the articles specified in this section shall be manufactured, altered, repaired or finished in a part of a cellar or basement of a tenement-house, which is more than one-half of its height below the level of the curb or ground outside of or adjoining the same. No person shall hire, employ or contract with any person to manufacture, alter, repair or finish any of the articles named in this section in any room or apartment in any tenement-house not having a license therefor issued as aforesaid. None of the articles specified in this section shall be manufactured, altered, repaired or finished in any room or apartment of a tenement-house unless said room or apartment shall be well lighted and ventilated and shall contain at least five hundred cubic feet of air space for every person working therein, or by any person other than the members of the family living therein; except that in licensed tenement-houses persons not members of the family may be employed in apartments on the ground floor or second floor, used only for shops of dressmakers who deal solely in the custom trade direct to the consumer, provided that such apartments shall be in the opinion of the commissioner of labor in the highest degree sanitary, well lighted, well ventilated and plumbed, and provided further that the whole number of persons therein shall not exceed one to each one thousand cubic feet of air space, and that there shall be no children under fourteen years of age living or working therein; before any such room or apartment can be so used a special permit therefor shall be issued by the commissioner of labor, a copy of which shall be entered in his public records with a statement of the reasons therefor.

Nothing in this section contained shall prevent the employment of a tailor or seamstress by any person or family for the purpose of making, altering, repairing or finishing any article of wearing apparel for the use of such person or family. Nor shall this section apply to a house if the only work therein on the articles herein specified be carried on in a shop on the main or ground floor thereof with a separate entrance to the street, unconnected with living rooms and entirely separate from the rest of the building by closed partitions without any openings whatsoever and not used for sleeping or cooking.

§ 101. Register of persons to whom work is given.—Persons contracting for the manufacturing, altering, repairing or finishing of any of the articles mentioned in section one hundred of this article or giving out material from which they or any part of them are to be manufactured, altered, repaired or finished, shall keep a register of the names and addresses plainly written in

English of the persons to whom such articles or materials are given to be so manufactured, altered, repaired or finished or with whom they have contracted to do the same. It shall be incumbent upon all persons contracting for the manufacturing, altering, repairing or finishing of any of the articles specified in section one hundred of this article or giving out material from which they or any part of them are to be manufactured, altered, repaired or finished, before giving out the same to ascertain from the office of the commissioner of labor whether the tenement-house in which such articles or materials are to be manufactured, altered, repaired or finished, is licensed as provided in this article, and also to ascertain from the local department or board of health the names and addresses of all persons then sick of any infectious, contagious or communicable disease, and residing in tenement-houses; and none of the said articles nor any material from which they or any part of them are to be manufactured, altered, repaired or finished shall be given out or sent to any person residing in a tenement-house that is not licensed as provided in this article, or to any person residing in a room or apartment in which there exists any infectious, contagious or communicable disease. The register mentioned in this section shall be subject to inspection by the commissioner of labor, and a copy thereof shall be furnished on his demand as well as such other information as he may require.

§ 102. **Goods unlawfully manufactured to be labeled.**—Articles manufactured, altered, repaired or finished contrary to the provisions of section one hundred of this chapter shall not be sold or exposed for sale by any person. The commissioner of labor may conspicuously affix to any such article found to be unlawfully manufactured, altered, repaired or finished, a label containing the words "tenement made" printed in small pica capital letters on a tag not less than four inches in length, or may seize and hold such article until the same shall be disinfected or cleaned at the owner's expense. The commissioner of labor shall notify the person stated by the person in possession of said article to be the owner thereof, that he has so labeled or seized it. No person except the commissioner of labor shall remove or deface any tag or label so affixed. Unless the owner or person entitled to the possession of an article so seized shall provide for the disinfection or cleaning thereof within one month thereafter it may be destroyed.

§ 103. **Powers and duties of boards of health relative to tenement-made articles.**—If the commissioner of labor finds evidence of disease present in a workshop or in a room or apartment in a tenement-house or dwelling house, in which any of the articles named in section one hundred of this chapter are manufactured, altered, repaired or finished or in process thereof, he shall affix to such articles the label prescribed in the preceding section, and immediately report to the local board of health, who shall disinfect such articles, if necessary, and thereupon remove such label. If the commissioner of labor finds that infectious or contagious diseases exist in a workshop, room or apartment of a tenement or dwelling house in which any of the articles specified in section one hundred of this chapter are being manufactured, altered, repaired or finished, or that articles manufactured or in process of manufacture therein are infected or that goods used therein are unfit for use, he shall report to the local board of health. The local health department or board in every city, town and village whenever there is any infectious, contagious or communicable disease in a tenement-house shall cause an inspec-

tion of such tenement-house to be made within forty-eight hours. If any of the articles specified in section one hundred of this chapter are found to be manufactured, altered, repaired or finished, or in process thereof in an apartment in which such disease exists, such board shall issue such order as the public health may require, and shall at once report such facts to the commissioner of labor, furnishing such further information as he may require. Such board may condemn and destroy all such infected article or articles manufactured or in the process of manufacture under unclean or unhealthful conditions. The local health department or board or other appropriate authority charged with the duty of sanitary inspection of such houses in every city, town and village shall, when so requested by the commissioner of labor, furnish copies of its records as to the presence of infectious, contagious or communicable disease, or of unsanitary conditions in said houses; and shall furnish such other information as may be necessary to enable the commissioner of labor to carry out the provisions of this article.

With this section is to be compared section 33 of the Public Health Law (ch. 49, Consolidated Laws), which reads as follows:

Section 33. *Manufactures in tenement houses and dwellings.*—No room or apartment in a tenement or dwelling house, used for eating or sleeping purposes, shall be used for the manufacture, wholly or partly, of coats, vests, trousers, kneepants, overalls, cloaks, shirts, purses, feathers, artificial flowers or cigars, except by the members of the family living therein, which shall include a husband and wife and their children, or the children of either. A family occupying or controlling such a workshop shall, within fourteen days from the time of beginning work therein, notify the board of health of the city, village or town, where such workshop is located, or a special inspector appointed by such board, of the location of such workshop, the nature of the work carried on, and the number of persons employed therein; and thereupon such board shall, if it deems advisable, cause a permit to be issued to such family to carry on the manufacture specified in the notice. Such board may appoint as many persons as it deems advisable to act as special inspectors. Such special inspectors shall receive no compensation, but may be paid by the board their reasonable and necessary expenses. If a board of health or such inspector shall find evidence of infectious or contagious diseases present in any workshop, or in goods manufactured or in process of manufacture therein, the board shall issue such orders as the public health may require, and shall condemn and destroy such infectious and contagious articles, and may, if necessary to protect the public health, revoke any permit granted by it for manufacturing goods in such workshop. If a board of health or any such inspector shall discover that any such goods are being brought into the state, having been manufactured, in whole or in part, under unhealthy conditions, such board or inspector shall examine such goods, and if they are found to contain vermin, or to have been made in improper places or under unhealthy conditions, the board may make such orders as the public health may require, and may condemn and destroy such goods.

§ 104. *Inspection of articles manufactured in other states.*—Whenever it is reported to the commissioner of labor that any of the articles named in section one hundred of this chapter are being shipped into this state, having previously been manufactured in whole or in part under unclean, unsanitary or unhealthy conditions, said commissioner shall examine said articles and the conditions of their manufacture, and if upon such examination said goods or any part of them are found to contain vermin or to have been manufactured in improper places or under unhealthy conditions, he shall forthwith affix to them the tag or label hereinbefore described and report to the local board of health, which board shall thereupon make such order or orders as the public safety may require.

§ 105. Owners of tenement and dwelling houses not to permit the unlawful use thereof.—The owner or agent of a tenement-house or dwelling house shall not permit the use thereof for the manufacture, repair, alteration or finishing of any of the articles mentioned in this article contrary to its provisions. If a room or apartment in such tenement-house or dwelling house be so unlawfully used, the commissioner of labor shall serve a notice thereof upon such owner or agent. Unless such owner or agent shall cause such unlawful manufacture to be discontinued within ten days after the service of such notice, or within fifteen days thereafter institutes and faithfully prosecutes proceedings for the dispossession of the occupant of a tenement-house, or dwelling house, who unlawfully manufactures, repairs, alters or finishes such articles therein, he shall be deemed guilty of a violation of this article, as if he, himself, was engaged in such unlawful manufacture, repair, alteration or finishing. The unlawful manufacture, repair, alteration or finishing of any of such articles by the occupant of a room or apartment of a tenement-house, or dwelling shall be a cause for dispossessing such occupant by summary proceedings to recover possession of real property, as provided in the code of civil procedure.

#### ARTICLE 8.

##### Bakeries and Confectioneries.†

[*Non-compliance with the provisions of this article is a misdemeanor (Penal Law, § 1275, subd. 6, post.) The provisions of Art. 6 as to factories generally, apply to bakeries and confectioneries: § 114, post.*]

##### Section 110. Hours of labor in bakeries and confectioneries.

- 111. Drainage and plumbing of buildings and rooms occupied by bakeries.
- 112. Requirements as to rooms, furniture, utensils and manufactured products.
- 113. Wash-room and closets; sleeping places.
- 114. Inspection of bakeries and confectioneries.
- 115. Notice requiring alterations.

§ 110. Hours of labor in bakeries and confectioneries.—No employee shall be required or permitted to work in a biscuit, bread or cake bakery or confectionery establishment more than sixty hours in any one week, or more than ten hours in any one day, unless for the purpose of making a shorter work day on the last day of the week; nor more hours in any one week than will make an average of ten hours per day for the number of days during such week in which such employee shall work.

Declared unconstitutional, April, 1905: *Lochner v. People of N. Y.*, 198 U. S. 45, 177 N. Y. 145.

§ 111. Drainage and plumbing of buildings and rooms occupied by bakeries. All buildings or rooms occupied as biscuit, bread, macaroni, spaghetti, pie or cake bakeries, shall be drained and plumbed in a manner conducive to the proper and healthful sanitary condition thereof, and shall be constructed with air-shafts, windows or ventilating pipes, sufficient to insure adequate and proper ventilation. No cellar or basement shall be occupied or used as a bakery, unless the proprietor shall comply with the provisions of this article, except that any cellar or basement less than eight feet in height

†As to bakeries in tenement houses, see the Tenement House Law (ch. 99, Consolidated Laws) § 40.

which was used for a bakery on the second day of May, eighteen hundred and ninety-five, need not be altered to conform to the provision with respect to height of rooms. Basements or cellars used as confectionery and ice cream manufacturing shops, shall be not less than seven feet in height; except that any cellar or basement more than six feet in height which was used as a confectionery or ice cream manufacturing shop before October first, nineteen hundred and six, need not be altered to conform with this provision.

§ 112. Requirements as to rooms, furniture, utensils and manufactured products.—Every room used for the manufacture of flour or meal food products shall be at least eight feet in height and shall have, if deemed necessary by the commissioner of labor, an impermeable floor constructed of cement, or of tiles laid in cement, or an additional flooring of wood properly saturated with linseed oil. The side walls of such rooms shall be plastered or wainscoted. The commissioner of labor may require the side walls and ceiling to be whitewashed, at least once in three months. He may also require the wood work of such walls to be painted. The furniture and utensils shall be so arranged as to be readily cleansed and not prevent the proper cleaning of any part of a room. The manufactured flour or meal food products shall be kept in dry and airy rooms so arranged that the floors, shelves and all other facilities for storing the same can be properly cleaned. No domestic animals, except cats, shall be allowed to remain in a room used as a biscuit, bread, pie or cake bakery or any room in such bakery where flour or meal products are stored.

§ 113. Wash-room and closets; sleeping places.—Every such bakery shall be provided with a proper wash-room and water-closet or water-closets apart from the bake-room, or rooms where the manufacture of such food product is conducted, and no water-closet, earth-closet, privy or ash-pit shall be within or connected directly with the bake-room of any bakery, hotel or public restaurant.

No person shall sleep in a room occupied as a bake-room. Sleeping places for the persons employed in the bakery shall be separate from the rooms where flour or meal food products are manufactured or stored. If the sleeping places are on the same floor where such products are manufactured, stored or sold, the commissioner of labor may inspect and order them put in a proper sanitary condition.

§ 114. Inspection of bakeries and confectioneries.—Bakeries and confectionery establishments are factories within the meaning of this chapter and are subject to the provisions of article six thereof. They shall be kept at all times in a clean and sanitary condition. If on inspection the commissioner of labor find any bakery or confectionery to be so unclean, ill drained or ill ventilated as to be unsanitary, he may after not less than forty-eight hours' notice in writing, to be served by affixing the notice on the inside of the main entrance door of said bakery, order the person found in charge thereof immediately to cease operating it until it be properly cleaned, drained or ventilated. If such bakery or confectionery be thereupon continued in operation or be thereafter operated before it be properly cleaned, drained or ventilated, the commissioner of labor may, after first making and filing in the public records of his office a written order stating the reasons therefor, at once and without further notice fasten up and seal the oven or other cooking

apparatus of said bakery or confectionery, and affix to all materials, receptacles, tools and instruments found therein, labels or conspicuous signs bearing the word "unclean." No one but the commissioner of labor shall remove any such seal, label or sign, and he may refuse to remove it until such bakery or confectionery be properly cleaned, drained or ventilated.

§ 115. Notice requiring alterations.—If, in the opinion of the commissioner of labor, alterations are required in or upon premises occupied and used as bakeries, in order to comply with the provisions of this article, a written notice shall be served by him upon the owner, agent or lessee of such premises, either personally or by mail, requiring such alterations to be made within sixty days after such service, and such alterations shall be made accordingly.

### ARTICLE 9.

#### Mines, Tunnels and Quarries and Their Inspection.

[Non-compliance with the provisions of this article is a misdemeanor (Penal Law, § 1270, subd. 2). Violation of any of the safety provisions of the article renders the master liable in case of injury to employees (§ 202, post).]

Section 120. Duties of commissioner of labor relating to mines, tunnels and quarries; record and report.

121. Outlets of mines.
122. Ventilation and timbering of mines and tunnels.
123. Riding on loaded cars; storage of inflammable supplies.
124. Inspection of steam boilers and apparatus; steam, air and water  
\* gauges.
125. Use of explosives; blasting.
126. Report of accidents.
127. Notice of dangerous condition.
128. Traveling ways.
129. Notice of opening new mine, shaft or quarry.
130. Notice of abandonment.
131. Employment of women and children.
132. Underground workings to be equipped with head house and doors.
133. Mines and tunnels to be equipped with wash-rooms.
134. Method of exploding blasts.
- 134-a. Hours of labor.
- 134-b. Medical attendance and regulations.
- 134-c. Penalties.
135. Enforcement of article.
136. Admission of inspectors to mines and tunnels.

§ 120. Duties of commissioner of labor relating to mines, tunnels and quarries; record and report.—The commissioner of labor shall see that every necessary precaution is taken to insure the safety and health of employees employed in the mines and quarries and in the construction of tunnels of the state and shall prescribe rules and regulations therefor; [†] keep a record of the names and location of such mines, tunnels and quarries, and the names of the persons or corporations owning or operating the same; collect data concerning the working thereof; examine carefully into the method of timbering shafts, drifts, inclines, slopes and tunnels, through which employees and other persons pass, in the performance of their daily labor, and see that the persons or corporations owning and operating such mines and

\* So in original.

† See present rules and regulations prescribed by Commissioner of Labor following § 136, post.

quarries and constructing tunnels comply with the provisions of this chapter; and such information shall be furnished by the person operating such mine, tunnel or quarry, upon the demand of the commissioner of labor.

The commissioner of labor shall keep a record of all mine, tunnel and quarry examinations, showing the date thereof, and the condition in which the mines, tunnels and quarries are found, and the manner of working the same. He shall make an annual report to the legislature during the month of January, containing a statement of the number of mines, tunnels and quarries visited, the number in operation, the number of men employed, and the number and cause of accidents, fatal and non-fatal, that may have occurred in and about the same.

§ 121. **Outlets of mines.**—If, in the opinion of the commissioner of labor, it is necessary for safety of employees, the owner, operator or superintendent of a mine operating through either a vertical or inclined shaft, or a horizontal tunnel, shall not employ any person therein unless there are in connection with the subterranean workings thereof not less than two openings or outlets, at least one hundred and fifty feet apart, and connected with each other. Such openings or outlets shall be so constructed as to provide safe and distinct means of ingress and egress from and to the surface, at all times, for the use of the employees of such mine.

§ 122. **Ventilation and timbering of mines and tunnels.**—In each mine or tunnel a ventilating current shall be conducted and circulated along the face of all working places and through the roadways, in sufficient quantities to insure the safety of employees and remove smoke and noxious gases.

Each owner, agent, manager or lessee of a mine or tunnel shall cause it to be properly timbered, and the roof and sides of each working place therein properly secured. No person shall be required or permitted to work in an unsafe place or under dangerous material, except to make it secure.

§ 123. **Riding on loaded cars; storage of inflammable supplies.**—No person shall ride or be permitted to ride on any loaded car, cage or bucket into or out of a mine or tunnel in process of construction. No powder or oils of any description shall be stored in a mine, tunnel or quarry, or in or around shafts, engine or boiler-houses, and all supplies of an inflammable and destructive nature shall be stored at a safe distance from the mine or tunnel openings.

§ 124. **Inspection of steam boilers and apparatus; steam, air and water gauges.**—All boilers used in generating steam for mining or tunneling purposes shall be kept in good order, and the owner, agent, manager or lessee of such mine or tunnel shall have such boilers inspected by a competent person, approved by the commissioner of labor, once in six months, and shall file a certificate showing the result thereof in the mine or tunnel office and a duplicate thereof in the office of the commissioner of labor. All engines, brakes, cages, buckets, ropes and chains shall be kept in good order and inspected daily by the superintendent of the mine or tunnel or a person designated by him. All lifts, hoists, ropes and other mechanical devices shall be properly designed and maintained to sustain the weight intended to be placed thereon or suspended therefrom, such factors of safety being used as are generally accepted as sufficient by competent engineers, and all cars and lifts shall be supplied with safety brakes. All hoisting ropes shall at all times be of a breaking strength of not less than five times the gross load suspended from them, including weight of rope itself. Each boiler or battery of boilers used



in mining or tunneling for generating steam, shall be provided with a proper safety valve and with steam and water gauges, to show, respectively, the pressure of steam and the height of water in the boilers. Every boiler-house in which a boiler or nest of boilers is placed, shall be provided with a steam gauge properly connected with the boilers, and another steam gauge shall be attached to the steam pipe in the engine-house, and so placed that the engineer or fireman can readily ascertain the pressure carried. Every tunnel in which men are working under artificial air pressure shall be furnished with properly equipped and placed gauges capable at all times of showing the weight or pressure of air in said tunnel, and said gauge shall at all times during working hours be accessible to all persons working on said tunnel.

§ 125. Use of explosives; blasting.—When high explosives other than gunpowder are used in a mine, tunnel or quarry, the manner of storing, keeping, moving, charging and firing, or in any manner using such explosives, shall be in accordance with rules [\*] prescribed by the commissioner of labor.

In charging holes for blasting, in slate, rock or ore in any mine, tunnel or quarry, no iron or steel pointed needle or tamping bar shall be used, unless the end thereof is tipped with at least six inches of copper or other soft material. No person shall be employed to blast, unless the mine or tunnel superintendent or person having charge of such mine or tunnel is satisfied that he is qualified, by experience, to perform the work with ordinary safety. When a blast is about to be fired in a mine or tunnel, timely notice thereof shall be given by the person in charge of the work, to all persons who may be in danger therefrom.

§ 126. Report of accidents.—Whenever loss of life or an accident causing an injury incapacitating any person for work shall occur in the operation of a mine or quarry, or in the construction or repair of a tunnel, the owner, agent, manager, lessee, contractor, subcontractor, or person in charge thereof, shall keep a correct record of all deaths, accidents or injuries sustained by any person therein or on the premises or works, in such form as may be required by the commissioner of labor. Such record shall be open to the inspection of the commissioner of labor and a copy thereof shall be furnished to the said commissioner on demand. Within forty-eight hours after the accident, death or injury a report thereof shall be made in writing to the commissioner of labor, stating as fully as possible the cause of the death or the extent and cause of the injury, and the place where the injured person has been sent, with such other or further information relative thereto as may be required by the said commissioner, who may investigate the causes thereof and require such precautions to be taken as will prevent the recurrence of similar happenings. No statement contained in any such report shall be admissible in evidence in any action arising out of the death or accident therein reported. [*As am'd by L. 1910, ch. 155.*]

Compare § 20-a *ante* (building accidents) and § 87 (factory accidents).

§ 127. Notice of dangerous condition.—If the commissioner of labor, after examination or otherwise, is of the opinion that a mine or tunnel or any thing used in the operation thereof is unsafe, he shall immediately serve a written notice, specifying the defects, upon the owner, agent, manager or lessee, who shall forthwith remedy the same.

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\* See rules and regulations prescribed by Commissioner of Labor, following § 136, *post*.

§ 128. **Traveling ways.**—In all mines there shall be cut out of or around the sides of every hoisting shaft or driven through the solid strata at the bottom thereof, a traveling way not less than five feet high and three feet wide to enable persons to pass the shaft in going from one side to the other without passing over or under or in the way of the cage or other hoisting apparatus.

§ 129. **Notice of opening new mine, shaft or quarry.**—Whenever a mine or quarry operator has engaged or is about to engage in the development of new industries by the sinking of new shafts, inclines, tunnels or quarries, he shall report to the commissioner of labor, giving the name of the owner or owners, and the location of the property, before the work of excavation shall have reached the depth of twenty-five feet.

§ 130. **Notice of abandonment.**—It shall be the duty of every mine or quarry operator to notify the commissioner of labor of the discontinuance or abandonment of any mine or quarry, when and in the event that such mine or quarry shall be closed permanently or abandoned.

§ 131. **Employment of women and children.**—No child under sixteen years of age shall be employed, permitted or suffered to work in or in connection with any mine or quarry in this state. No female shall be employed, permitted or suffered to work in any mine or quarry in this state.

§ 132. **Underground workings to be equipped with head house and doors.**—Every underground working where the depth exceeds forty feet shall be equipped with a proper head house and trapdoors.

§ 133. **Mines and tunnels to be equipped with wash-rooms.**—Every mine, tunnel or quarry employing over twenty-five men shall maintain a suitably equipped and heated wash-room, which shall be at all times accessible to the men employed.

§ 134. **Method of exploding blasts.**—No blast shall be exploded by an electric current of more than two hundred and fifty volts.

§ 134-a. **Hours of labor.**—All work in the prosecution of which tunnels, caissons or other apparatus or means in which compressed air is employed are used shall be conducted subject to the following restrictions and regulations: When the air pressure in any compartment, caisson, tunnel or place in which men are employed is greater than normal and does not exceed twenty-eight pounds to the square inch, no employee shall be permitted to work or remain therein more than eight hours in any twenty-four hours and shall only be permitted to work under such air pressure provided he shall during such period return to the open air for an interval of at least thirty consecutive minutes, which interval his employer shall provide for. When the air pressure in any such compartment, caisson, tunnel or place shall exceed twenty-eight pounds to the square inch, and shall not equal thirty-six pounds to the square inch, no employee shall be permitted to work or remain therein more than six hours, such six hours to be divided into two periods of three hours each, with an interval of at least one hour between each such period. When the air pressure in any such compartment, caisson, tunnel or place shall equal thirty-six pounds to the square inch and shall not equal forty-two pounds to the square inch, no such employee shall be permitted to work or remain therein more than four hours in any twenty-four hours, such four hours to be divided into periods of not more than two hours each, with an interval of at least two hours between each

such period; when the air pressure in any such compartment, caisson, tunnel or place shall equal forty-two pounds to the square inch and shall not equal forty-six pounds to the square inch, no employee shall be permitted to work or remain therein more than three hours in any twenty-four hours, such three hours to be divided into periods of not more than ninety minutes each, with an interval of at least three hours between each such period; when the air pressure in any such compartment, caisson, tunnel or place shall equal forty-six pounds to the square inch and shall not equal fifty pounds to the square inch, no employee shall be permitted to work or remain therein more than two hours in any twenty-four hours, such two hours to be divided into periods of one hour each, with an interval of not less than four hours between each such period; no employee shall be permitted to work in any compartment, caisson, tunnel or place where the pressure shall exceed fifty pounds to the square inch, except in case of emergency. No person employed in work in compressed air shall be permitted by his employer or by the person in charge of said work to pass from the lock in which the work is being done to atmosphere of normal pressure, without passing through an intermediate lock or stage of decompression, which said decompression shall be at the rate of three pounds every two minutes unless the pressure shall be over thirty-six pounds, in which event the decompression shall be at the rate of one pound per minute. Instruments shall be fitted in all caissons and air locks showing the actual pressure prevailing. [Added by L. 1909, ch. 291.]

§ 134-b. Medical attendance and regulations.—Any person or corporation carrying on any work in the prosecution of which tunnels, caissons or other apparatus or means in which compressed air is employed are used shall employ and keep in employment during the prosecution of such work at the place where it is being carried on one or more duly qualified persons to act as medical officer or officers who shall be in attendance at all times while such work is in progress and whose duty it shall be to administer and strictly enforce the following:

(a) No person shall be permitted to work in compressed air until after he shall have been examined by such medical officer and reported by such officer to the person in charge thereof as found to be qualified, physically, to engage in such work.

(b) In the event of absence from work, by an employee for three or more successive days for any cause, he shall not resume work until he shall have been re-examined by the medical officer and his physical condition reported as hitherto provided to be such as to permit him to work in compressed air.

(c) No person known to be addicted to the excessive use of intoxicants shall be permitted to work in compressed air.

(d) No person not having previously worked in compressed air shall be permitted during the first twenty-four hours of his employment to work for longer than one-half of a period as provided in section one hundred and thirty-four-a and after so working shall be re-examined and not permitted to work unless his physical condition be reported by the medical officer as heretofore provided to be such as to qualify him for such work.

(e) After a person has been employed continuously in compressed air for a period of three months he shall be re-examined by the medical officer and he shall not be allowed, permitted or compelled to work until such examination has been made and he has been reported as heretofore provided as physically qualified to engage in compressed air work.

(f) The said medical officer shall at all times keep a complete and full record of examinations made by him which record shall contain dates on which examinations were made and a clear and full description of the person examined, his age and physical condition at the time examined, also the statement as to the time such person has been engaged in like employment.

(g) Properly heated, lighted and ventilated dressing rooms shall be provided for all employees in compressed air which shall contain lockers and benches and shall be open and accessible to the men during the intermission between shifts. Such rooms shall be provided with baths, with hot and cold water service and a proper and sanitary toilet.

(h) A medical lock shall be established and maintained in connection with all work in compressed air as herein provided. Such lock shall be kept properly heated, lighted and ventilated and shall contain proper medical and surgical equipment. Such lock shall be in charge of the medical officer. [*Added by L. 1909, ch. 291.*]

§ 134-c. Penalties.—Every person who, or corporation which, shall violate or fail to comply with any of the foregoing provisions shall be guilty of a misdemeanor which shall be punishable by a fine of not less than two hundred and fifty dollars or imprisonment for one year or both. [*Added by L. 1909, ch. 291.*]

§ 135. Enforcement of article.—The commissioner of labor may serve a written notice upon the owner, agent, manager or lessee of a mine or tunnel requiring him to comply with a specified provision of this article. The commissioner of labor shall begin an action in the supreme court to enforce compliance with such provision; and upon such notice as the court directs an order may be granted, restraining the working of such mine or tunnel during such time as may be therein specified.

§ 136. Admission of inspectors to mines and tunnels.—The owner, agent, manager or lessee of a mine or tunnel, at any time, either day or night, shall admit to such mine or tunnel, or any building used in the operation thereof, the commissioner of labor or any qualified person duly authorized by him, for the purpose of making the examinations and inspections necessary for the enforcement of this article, and shall render any necessary assistance for such inspections.

#### RULES AND REGULATIONS PRESCRIBED BY THE COMMISSIONER OF LABOR.

[*By authority of Sections 120 and 125 above.*]

##### FOR MINES AND QUARRIES.

**Superintendent.**—1. The mine superintendent shall pay particular attention to discipline. All inspections shall be reported to him. He shall see that all the provisions of the law and of these rules are enforced in his mine. He shall watch all work done by contractors to see that they comply with the law and these rules.

**Daily inspection.**—2. The superintendent shall designate a competent person, who shall each day make an inspection of all mining appliances, boilers, engines, magazines, shafts, shafthouses, underground workings, roofs, pillars, timbers, explosives, bell-ropes, telephones, operating tubes, tracks, ladders, etc., and report any defects to the superintendent, in writing, at once.

**Boilers.**—3. Superintendents shall require a strict compliance with § 124 of the Labor Law regarding boiler inspection. Boilers shall be examined daily, and any imperfections reported to the master mechanic or superintendent at once.

**Timbering.**—4. Timber shall be of ample size and strength and shall be used freely and wherever there is any chance of danger. Only new or properly seasoned timber shall be used, and shall be inspected carefully for rot or other defects before using and periodically thereafter.

**Air.**—5. The use of air instead of steam for drilling in all underground workings is advised.

**Signals.**—6. Special attention shall be given to the matter of signals and to keeping the appliances therefor in order. The bell line shall be of ample strength and kept free and clear of all rock and timbers. Shafts of 400 feet or over shall have speaking tubes or telephones from the foot of the shaft to the engine-room. A code of signals shall be posted at different parts of the workings and particularly at the shafthead, together with a notice of a penalty for wrong signals. Wrong signals should be severely punished.

**Ladderways.**—7. Ladders shall be strong and intact. In vertical shafts and in deep pitching inclines there should be landings not more than twenty feet apart, and closely covered except a hole large enough for a man to pass to the next ladder. In inclines, there shall be a hand-rail attached to the ladder, and wherever possible steps should be used with hand-rail attached.

**The shaft.**—8. The shafthead shall be covered and guarded so as to prevent accidents from persons falling into it, or from foreign objects dropping down. Automatic doors should, in most cases, be used. The manway shall be around and not across the shafthead. The timbering of the shaft shall be sounded and examined often, as it decays rapidly under certain conditions. Inside shafts, winzes, and shutes shall be carefully guarded. When sinking or continuing a shaft below levels where the work of mining is being carried on, the collars at the lower level shall be covered to prevent objects from falling down the shaft, and such covering should be composed of timber not less than four inches in thickness; and where a cage is used a bonnet shall be placed over it.

**Hoisting engineers.**—9. Superintendents shall use extraordinary care to see that their engineers are mentally and physically qualified for their positions. Where persons are lowered into or hoisted out of a mine, engineers shall be not less than 21, otherwise not less than 18 years of age. They shall never delegate the control of the machinery to any other person, and no one shall interfere with them in their duties.

10. The hoisting engineer shall be in constant attendance at his engine or boilers whenever there are workmen underground.

11. The engineer shall not permit any one to enter or loiter in the engine-room except those required by their positions or duties to do so, and he shall hold no conversation with anyone while the engine is in motion or while his attention should be occupied with signals. A notice to that effect shall be posted on the door of the engine house.

12. The engineer must thoroughly understand the code of signals, which must be delivered in the engine room in a clear and unmistakable manner; and when he receives a signal that men are in the cage or carriage he must work his engine with extra care and only at a moderate rate of speed.

13. The engineer or some other specifically designated and properly qualified employee must keep a careful watch over the engine, boilers, pumps, ropes and winding apparatus, and see that boilers are supplied with water, cleaned and inspected at frequent intervals and that the steam pressure does not exceed the prescribed limit; and he shall frequently try the safety valves and shall not increase the weights thereon. He shall see that the steam and water gauges are always in good order, and if any of the pumps, valves or gauges become deranged, he shall promptly report the facts to his superiors.

**Hoisting machinery.**—14. Machinery used for lowering or raising employees into or out of mines and stairs for ingress and egress shall be kept in a safe condition and inspected each twenty-four hours by a competent person especially designated for that purpose.

15. The operator, or superintendent shall provide and maintain from the top to the bottom of every shaft where persons are raised or lowered, a telephone or a metal tube suitably adapted to the free passage of sound, through which conversation may be held between persons at the top and bottom of said shaft, and also

other means of signaling from the top to the bottom thereof, and shall provide every cage or gear carriage used for hoisting or lowering persons with a proper safety catch and with a sufficient overhead covering to protect them while using it. And he shall see that the flanges, with a clearance of not less than four inches where the whole of the rope is wound on the drum, are attached to the side of the drum of every machine that is used for lowering and hoisting persons; that adequate brakes are attached to the drum, and that safety gates are so placed at all shafts as to prevent persons from falling in.

16. The main governing chain attached to the socket of the wire rope shall be made of the best quality of iron and shall be properly tested; and the bridal chain shall be attached to the hoisting rope above the socket from the top cross-piece of the carriage or cage so that no single chain shall be used for lowering or hoisting persons.

17. No greater number of persons shall be lowered or hoisted at any one time than may be allowed by the Commissioner of Labor; and notice of the maximum number allowed to be lowered or hoisted at any one time shall be kept posted in a conspicuous place at the top of the shaft.

**Dangerous machinery.**—18. All machinery about mines from which any accidents are liable to occur shall be suitably guarded or railed off.

**Fire.**—19. All oil waste, candles, etc., shall be stored at a safe distance from the boiler-house, engine-room and shafthouse, and a quantity of water shall be stored at such place to guard against fire. All shafthouses shall have ample fire protection, and the appliances shall be kept in condition for instant use. All mining plants using steam should have a hose attached to the injector or feed pipe for use in case of fire.

**Storing explosives.**—20. All explosives shall be stored in a magazine provided for that purpose, and located far enough from the working-shaft, slope or tunnel, boiler-house, or engine-room, so that in case the whole quantity should be exploded, there would be no danger, and all explosives in excess of what are needed for one shift shall be kept in the magazine. Such magazine should be fireproof, and so constructed that a modern rifle or pistol bullet cannot penetrate it. A suitable place for thawing powder shall be provided and kept in condition for use. The hot water or steam bath device should be used. Dry heat shall never be used. A receptacle for carrying explosives shall be provided. Exploders and powder shall not be kept in the same room. A suitable place separated from mine boilers or engine-room shall be provided for preparing charges. One man shall have full charge of the magazine. (See further the special rules for handling dynamite below.)

**Blasting.**—21. All blasting shall be done by one man and his helper, designated by the superintendent for that purpose. After blasting no one else shall be allowed in that part of the mine until the blaster has made a personal examination and pronounced "all over." If a blast misses fire, no one except the blaster and his helper shall be allowed in that part of the mine less than three hours thereafter unless and until the blaster has made a personal examination and pronounced "all safe." No person shall use or handle any explosives who is addicted to the use of intoxicants. All tamping of high explosives shall be done with a wooden bar. Timely and sufficient warning shall be given when a blast is about to be fired.

#### FOR STORING, KEEPING, MOVING, THAWING, CHARGING AND FIRING DYNAMITE.

**Storing and keeping.**—1. Dynamite must be stored in a building separate and isolated from other buildings and from traffic. Caps and electric exploders and fuses must never be stored in the *same* building with the powder, but must always be kept apart until needed for preparing the charge.

**Moving.**—2. When dynamite is hauled in wagons, railway trains, mine cars or similar vehicles, the *greatest* care must be exercised, and neither percussion caps, exploders, fulminators, friction matches nor any other article of like nature shall be loaded in the same wagon, car or vehicle.

**Thawing powder.**—3. All nitro-glycerine compounds freeze and become hard at about 42 degrees Fahrenheit, in which condition they will not readily explode.

When large quantities are to be used, a separate building for thawing should be fitted with a small steam radiator. Use only exhaust steam for heating it, if possible keeping the temperature of the rooms at about 80 degrees Fahrenheit. In the part of the room farthest from the radiator, place the powder on racks to thaw. When but small quantities need to be thawed, a thawing kettle may be used, being two water-tight kettles (one smaller and placed inside the other), the cartridges placed in the smaller kettle, the space between the two kettles filled with hot water of from 120 to 130 degrees Fahrenheit, and the kettle fitted with a cover to retain the heat. Never place the kettle over the fire to heat. When more hot water is required, empty and fill again with hot water. Never attempt to thaw the powder by placing it in hot water or exposing it to the direct action of steam.

**Precautions.**—4. Powder must *never* be placed on, in, or near hot steam pipes, steam boilers, a hot stove, nor any hot metal, nor exposed to radiated heat from a fire or hot stove. Never roast, toast or bake it in any way, nor take it near a blacksmith forge. Never allow *smoking* or fire of any description, nor leave any loose caps or fuse near it.

**Preparing a charge.**—5. Cut a piece of safety fuse to the right length and carefully insert the fresh cut end in a blasting cap. See that the cap is free from any particle of sawdust before inserting the fuse. Press the fuse gently into the cap as far as it will go. Crimp the open end of the cap tightly around the fuse with a pair of cap-nippers, but under no consideration disturb the fulminate or filling in the cap. Then open one end of the cartridge carefully, and with a sharpened lead pencil or pointed wooden stick, make a hole in the powder, insert the capped end of the fuse, being careful to see that at least one-fourth of an inch of the cap remains out of the powder. Then draw the paper closely about the fuse and tie in with a strong cord.

**Charging the drill-hole.**—6. Having properly prepared the cartridges (being sure that none are frozen) push them gently to the bottom of the drilled hole with a wooden stick, putting the capped cartridge on top.

**Tamping.**—7. Having placed the required quantity of powder in the hole, cover with six or eight inches of loose tamping, press it down firmly with a *wooden* stick, after which the hole may be tamped to the top, ramming the tamping down hard. Never use an iron or metal bar. Wood is always sufficient.

**Misfire.**—8. In case of misfires, never attempt to remove the tamping or draw the charge; always drill a new hole.

#### FOR THE DAILY GUIDANCE OF EMPLOYEES.

1. No employee shall ride on any loaded skip, car, cage or bucket nor walk up or down any slope, or shaft, while any skip, car, cage or bucket is above.

2. The pit boss shall carefully examine the hanging wall of all slopes, levels and working chambers daily.

3. Machine runners shall carefully examine and sound hanging wall at face working, and remove all loose rock or ore before proceeding to drill.

4. No employees shall handle any explosives nor do any blasting except the person or persons designated for that special purpose by the superintendent.

5. After blasting no one except the blaster or blasters shall be allowed in the part of the mine where such blast has been fired, until the blaster has made a personal examination, and pronounced all safe.

6. No iron or steel bar, unless tipped with six inches of copper or other soft metal, shall be used for tamping any explosive. When tamping dynamite, or other high explosives, wood only shall be used.

7. The mine superintendent or person designated by him shall examine daily all mining appliances and see that they are in safe condition.

8. Whenever a shot misses fire no one shall be allowed to return to that part of the mine in less than three hours, unless and until the blaster after a personal examination shall pronounce all safe.

9. No person addicted to the use of intoxicating drink shall have charge of any explosives, boiler, engine or hoist, nor shall any person be allowed in any part of the mine while under the influence of liquor.

FOR WORK OF EXCAVATION AND CONSTRUCTION OF TUNNELS CARRIED ON IN COMPRESSED AIR.—SUPPLEMENTING §§ 134-a-134-b.

LOCKS.

Where practicable each bulkhead in the tunnel shall have at least two locks in perfect working condition.

The man lock shall be large enough so that those using it are not compelled to be in a cramped position.

The emergency lock shall be large enough to hold an entire heading shift.

Every lock must be lighted by electricity and shall contain a pressure gauge and a timepiece, and shall have a glass "bullseye" in each door or in each end.

Valves must be so arranged that the locks can be operated both from within and from without.

Each man lock shall be in charge of a competent lock tender.

LIGHT, SANITATION AND VENTILATION IN AIR CHAMBER.

All lighting in compressed air chambers shall be by electricity only, except in cases of emergency.

Absolutely no nuisance shall be tolerated in the air chamber, and smoking shall be strictly prohibited.

No animals for hauling shall be permitted in the air chambers.

An air-supply pipe shall be carried as near to the face as may be practicable and necessary. The air shall be analyzed at least once in every forty-eight hours, and the percentage of CO<sub>2</sub> shall not be greater than 1/10 of one per cent. above that of the air being compressed.

The exhaust valves shall be operated at certain intervals, especially after a blast, and men shall not be required to resume work after a blast until the gas and smoke have cleared sufficiently.

Persons in the air chamber must be able to communicate with the powerhouse on the surface by means of suitable devices at all times.

GAUGES.

In addition to the gauges in the locks, an accurate gauge shall be maintained on the outer side of each bulkhead. These gauges shall be accessible at all times and shall be kept in accurate working order.

SAFETY SCREENS.

Where practicable, safety screens shall be installed after the heading has proceeded beyond the bulkhead line.

GENERAL.

A record of all men working in the air chambers shall be kept by a special man who shall remain outside the lock near the entrance. This record shall show the period of stay in the air chamber of each person and the time taken for decompression.

A liberal supply of hot coffee and sugar shall be supplied to men working in compressed air. Coffee must be heated by means other than direct steam.

ARTICLE 10.

Bureau of Mediation and Arbitration.

Section 140. Chief mediator.

141. Mediation and investigation.

142. Board of mediation and arbitration.

143. Arbitration by the board.

144. Decisions of board.

145. Annual report.

146. Submission of controversies to local arbitrators.

147. Consent; oath; powers of arbitrators.

148. Decision of arbitrators.

§ 140. Chief mediator.—There shall continue to be a bureau of mediation and arbitration. The second deputy commissioner of labor shall be the chief



mediator of the state and in immediate charge of this bureau, but subject to the supervision and direction of the commissioner of labor.

*Cf. § 42, ante.*

§ 141. **Mediation and investigation.**—Whenever a strike or lockout occurs or is seriously threatened an officer or agent of the bureau of mediation and arbitration shall, if practicable, proceed promptly to the locality thereof and endeavor by mediation to effect an amicable settlement of the controversy. If the commissioner of labor deems it advisable the board of mediation and arbitration may proceed to the locality and inquire into the cause thereof, and for that purpose shall have all the powers conferred upon it in the case of a controversy submitted to it for arbitration.

§ 142. **Board of mediation and arbitration.**—There shall continue to be a state board of mediation and arbitration, which shall consist of the chief mediator and two other officers of the department of labor to be from time to time designated by the commissioner of labor. The chief mediator when present shall be the chairman of the board. Two members of such board shall constitute a quorum for the transaction of business, and may hold meetings at any time or place within the state. Examinations or investigations ordered by the board may be held and taken by and before any of their number, if so directed, but a decision rendered in such a case shall not be deemed conclusive until approved by the board.

§ 143. **Arbitration by the board.**—A grievance or dispute between an employer and his employees may be submitted to the board of arbitration and mediation for their determination and settlement. Such submission shall be in writing, and contain a statement in detail of the grievance or dispute and the cause thereof, and also an agreement to abide the determination of the board, and during the investigation to continue in business or at work, without a lockout or strike. Upon such submission, the board shall examine the matter in controversy. For the purpose of such inquiry they may subpoena witnesses, compel their attendance, take and hear testimony, and call for and examine books, papers and documents of any parties to the controversy. Subpoenas shall be issued by the chairman under the seal of the department of labor. Witnesses shall be allowed the same fees as in courts of record. The decision of the board must be rendered within ten days after the completion of the investigation.

§ 144. **Decisions of board.**—Within ten days after the completion of every arbitration, the board or a majority thereof shall render a decision, stating such details as will clearly show the nature of the controversy and the points disposed of by them, and make a written report of their findings of fact and of their recommendations to each party of the controversy. Every decision and report shall be filed in the office of the board and a copy thereof served upon each party to the controversy.

§ 145. **Annual report.**—The commissioner of labor shall make an annual report to the legislature of the operations of this bureau.

§ 146. **Submission of controversies to local arbitrators.**—A grievance or dispute between an employer and his employees may be submitted to a board of arbitrators, consisting of three persons, for hearing and settlement. When the employees concerned are members in good standing of a labor organization, one arbitrator may be appointed by such organization and one by the

employer. The two so designated shall appoint a third, who shall be chairman of the board. If such employees are not members of a labor organization, a majority thereof at a meeting duly called for that purpose, may designate one arbitrator for such board.

§ 147. **Consent; oath; powers of arbitrators.**—Before entering upon his duties, each arbitrator so selected shall sign a consent to act and take and subscribe an oath to faithfully and impartially discharge his duties as such arbitrator, which consent and oath shall be filed in the clerk's office of the county or counties where the controversy arose. When such board is ready for the transaction of business, it shall select one of its members to act as secretary, and notice of the time and place of hearing shall be given to the parties to the controversy. The board may, through its chairman, subpoena witnesses, compel their attendance and take and hear testimony. The board may make and enforce rules for its government and the transaction of the business before it, and fix its sessions and adjournments.

§ 148. **Decision of arbitrators.**—The board shall, within ten days after the close of the hearing, render a written decision signed by them giving such details as clearly show the nature of the controversy and the questions decided by them. One copy of the decision shall be filed in the office of the clerk of the county or counties where the controversy arose and one copy shall be transmitted to the bureau of mediation and arbitration.

#### ARTICLE 10-a.

##### Bureau of Industries and Immigration.

[Added by L. 1910, ch. 514.]

Section 151. Bureau of industries and immigration.

152. Special investigators.

153. General powers and duties.

154. Proceedings before the commissioner of labor.

155. Registration and reports of employment agencies.

156. Reports.

§ 151. **Bureau of industries and immigration.**—There shall be a bureau of industries and immigration, which shall be under the immediate charge of a chief investigator, but subject to the supervision and direction of the commissioner of labor.

*Cf. § 42, ante.*

§ 152. **Special investigators.**—The commissioner of labor may appoint from time to time not more than twelve persons as special investigators, not more than two of whom shall be women, and who may be removed by him at any time. The special investigators may be divided into two grades. Each special investigator of the first grade shall receive an annual salary of twelve hundred dollars, and each of the second grade an annual salary of fifteen hundred dollars.

§ 153. **General powers and duties.**—1. The commissioner of labor shall have the power to make full inquiry, examination and investigation into the condition, welfare and industrial opportunities of all aliens arriving and being within the state. He shall also have power to collect information with

respect to the need and demand for labor by the several agricultural, industrial and other productive activities, including public works throughout the state; to gather information with respect to the supply of labor afforded by such a lien as shall from time to time arrive or be within the state; to ascertain the occupations for which such aliens shall be best adapted, and to bring about intercommunication between them and the several activities requiring labor which will best promote their respective needs; to investigate and determine the genuineness of any application for labor that may be received and the treatment accorded to those for whom employment shall be secured; to co-operate with the employment and immigration bureaus conducted under authority of the federal government or by the government of any other state, and with public and philanthropic agencies designed to aid in the distribution and employment of labor; and to devise and carry out such other suitable methods as will tend to prevent or relieve congestion and obviate unemployment.

2. The commissioner of labor shall procure with the consent of the federal authorities complete lists giving the names, ages and destination within the state of all alien children of school age, and such other facts as will tend to identify them, and shall forthwith deliver copies of such lists to the commissioner of education or the several boards of education and school boards in the respective localities within the state to which said children shall be destined, to aid in the enforcement of the provisions of the education law relative to the compulsory attendance at school of children of school age.

3. The commissioner of labor shall further co-operate with the commissioner of education and with the several boards of education and school commissioners in the state, to devise methods for the proper instruction of adult and minor aliens in the English language and in respect to the duties and rights of citizenship and the fundamental principles of the American system of government, and otherwise to further their education.

4. The commissioner of labor may inspect all labor camps within the state; and shall inspect all employment and contract labor agencies dealing principally with aliens, or who secure or negotiate contracts for their employment within the state; shall co-operate with other public authorities, to enforce all laws applicable to private bankers dealing with aliens and laborers; secure information with respect to such aliens who shall be in prisons, almshouses and insane asylums of the state, and who shall be deportable under the laws of the United States, and co-operate with the federal authorities and with such officials of the state having jurisdiction over such criminals, paupers and insane aliens who shall be confined as aforesaid, so as to facilitate the deportation of such persons as shall come within the provisions of the aforesaid laws of the United States, relating to deportation; shall investigate and inspect institutions established for the temporary shelter and care of aliens, and such philanthropic societies as shall be organized for the purpose of securing employment for or aiding in the distribution of aliens, and the methods by which they are conducted.

5. The commissioner of labor shall investigate conditions prevailing at the various places where aliens are landed within this state, and at the several docks, ferries, railway stations and on trains and boats therein, and in co-operation with the proper authorities, afford them protection against frauds,

crimes and exploitation; shall investigate any and all complaints with respect to frauds, extortion, incompetency and improper practices by notaries public, interpreters and other public officials, and present to the proper authorities the results of such investigation for action thereon; shall investigate and study the general social conditions of aliens within this state, for the purpose of inducing remedial action by the various agencies of the state possessing the requisite jurisdiction; and shall generally, in conjunction with existing public and private agencies, consider and devise means to promote the welfare of the state.

§ 154. **Proceedings before the commissioner of labor.**—Any investigation, inquiry or hearing which the commissioner of labor has power to undertake or to hold may by special authorization from the commissioner of labor be undertaken or held by or before the chief investigator, and any decision rendered on such investigation, inquiry or hearing, when approved and confirmed by the commissioner and ordered filed in his office, shall be and be deemed to be the order of the commissioner. All hearings before the commissioner or chief investigator shall be governed by rules to be adopted and prescribed by the commissioner; and in all investigations, inquiries or hearings the commissioner or chief investigator shall not be bound by technical rules of evidence. No person shall be excused from testifying or from producing any books or papers on any investigation or inquiry by or upon any hearing before the commissioner or chief investigator, when ordered to do so, upon the ground that the testimony or evidence, books or documents required of him may tend to incriminate him or subject him to a penalty or forfeiture, but no person shall be prosecuted, punished or subjected to any penalty or forfeiture for or on account of any act, transaction, matter or thing concerning which he shall under oath have testified or produced documentary evidence; provided, however, that no person so testifying shall be exempt from prosecution or punishment for any perjury committed by him in his testimony.

§ 155. **Registration and reports of employment agencies.**—The term "employment agency" as used in this act shall include any person, firm, corporation or association regularly engaging in the business of negotiating labor contracts or of receiving applications for help or labor, or for places or positions, excepting such as shall conduct agencies exclusively for procuring employment for teachers, for incumbents of technical, clerical or executive positions, for vaudeville or theatrical performers, musicians or nurses, and also excepting bureaus conducted by registered agricultural or medical institutions and, excepting also departments maintained by persons, firms, corporations or associations for the purpose of securing help for themselves where no fee is charged the applicant for employment. All employment agencies other than those herein excepted shall on or before the first day of October, nineteen hundred and ten, and annually thereafter, file with the commissioner of labor a statement containing the name of the person, firm, corporation or association conducting such agency, the street and number of the place where the same shall be conducted and showing whether said agency is licensed or unlicensed, and if licensed, specifying the date and duration of the license, by whom granted and the number thereof. Such statements shall be registered by the commissioner. Every such employment agency shall keep in the

office thereof a full record of the country of the birth of those for whom places or positions are secured, their length of residence in this country, and the name and address of the person, firm or corporation to whom the persons for whom such places or positions are secured shall be sent, the occupation for which employment shall be secured, and the compensation to be paid to the person employed. The books and records of every such agency shall at all reasonable hours be subject to examination by the commissioner of labor. Any person who shall fail to register with the commissioner of labor or to keep books or records shall be guilty of a misdemeanor and shall be punishable for the first offense by a fine of not less than ten dollars, nor more than twenty-five dollars, and for every subsequent offense by a fine of not less than twenty-five dollars, nor more than one hundred dollars, or by imprisonment for not more than thirty days, or by both such fine and imprisonment.

§ 156. **Reports.** The commissioner of labor shall make an annual report to the legislature of the operation of this bureau.

#### ARTICLE 11.

##### **Employment of Women and Children in Mercantile Establishments.**

[NOTE.—Until October 1, 1908, the enforcement of this article everywhere was in the hands of local boards of health. On October 1, 1908, enforcement in cities of the first class was transferred to the Department of Labor; elsewhere enforcement remains as before (§ 172.) Non-compliance with its provisions is a misdemeanor (Penal Law, § 1275, subd. 7, post).]

##### **Section 160. Application of article.**

- 161. Hours of labor of minors.
- 161-a. Hours of labor of messengers.
- 162. Employment of children.
- 163. Employment certificate; how issued.
- 164. Contents of certificate.
- 165. School record, what to contain.
- 166. Summer vacation certificate.
- 167. Registry of children employed.
- 168. Wash-rooms and water-closets.
- 169. Lunch rooms.
- 170. Seats for women in mercantile establishments.
- 171. Employment of women and children in basements.
- 172. Enforcement of article.
- 173. Copy of article to be posted.

§ 160. **Application of article.**—The provisions of this article shall apply to all villages and cities which at the last preceding state enumeration had a population of three thousand or more.

§ 161. **Hours of labor of minors.**—No child under the age of sixteen years shall be employed, permitted or suffered to work in or in connection with any mercantile establishment, business office, or telegraph office, restaurant, hotel, apartment-house, bowling alley, or in the distribution or transmission of merchandise, articles or messages, or in the distribution or sale of articles or as a messenger, usher or checker in places of amusement, more than fifty-four hours in any one week, or more than nine hours in any one day, or before eight o'clock in the morning or after seven o'clock in the evening of any day. No female employee between sixteen and twenty-one years of

age shall be required, permitted or suffered to work in or in connection with any mercantile establishment more than sixty hours in any one week; or more than ten hours in any one day, unless for the purpose of making a shorter work day of some one day of the week; or before seven o'clock in the morning or after ten o'clock in the evening of any day. This section does not apply to the employment of persons sixteen years of age or upward between the eighteenth day of December and the following twenty-fourth day of December, both inclusive. Not less than forty-five minutes shall be allowed for the noonday meal of the employees of any such establishment. Whenever any employee is employed or permitted to work after seven o'clock in the evening, such employee shall be allowed at least twenty minutes to obtain lunch or supper between five and seven o'clock in the evening. [As am'd by L. 1910, ch. 387.]

Compare § 77, *ante*.

§ 161-a. Hours of labor of messengers.—In cities of the first or second class no person under the age of twenty-one years shall be employed or permitted to work as a messenger for a telegraph or messenger company in the distribution, transmission or delivery of goods or messages before five o'clock in the morning or after ten o'clock in the evening of any day. [Added by L. 1910, ch. 342.]

Compare Article 15, *post*, as to employment of children in street trades. See also Penal Law, § 488, under CHILD LABOR, *post*.

§ 162. Employment of children.—No child under the age of fourteen years shall be employed or permitted to work in or in connection with any mercantile or other business or establishment specified in the preceding section, except that a child upward of twelve years of age may be employed therein in villages and cities of the second or third class during the summer vacation of the public schools of the city or district where such establishment is situated. No child under the age of sixteen years shall be so employed or permitted to work unless an employment certificate, issued as provided in this article, shall have been theretofore filed in the office of the employer at the place of employment of such child. [As am'd by L. 1909, ch. 293.]

Compare § 70, *ante*, and Education Law, §§ 626, 628, *post*.

Section 488 of the Penal Law makes it a misdemeanor to send a messenger boy into disorderly houses, unlicensed saloons, etc.

§ 163. Employment certificate; how issued.—Such certificate shall be issued by the commissioner of health or the executive officer of the board or department of health of the city, town or village where such child resides or is to be employed, or by such officer thereof as may be designated by such board, department or commissioner for that purpose, upon the application of the parent, guardian or custodian of the child desiring such employment. Such officer shall not issue such certificate until he has received, examined, approved and filed the following papers duly executed, viz.: The school record of such child properly filled out and signed as provided in this article; also, evidence of age showing that the child is fourteen years old or upwards, which shall consist of the evidence thereof provided in one of the following subdivisions of this section and which shall be required in the order herein designated as follows:

(a) Birth certificate.—A duly attested transcript of the birth certificate filed according to law with a registrar of vital statistics or other officer

charged with the duty of recording births which certificate shall be conclusive evidence of the age of such child.

(b) Certificate of graduation.—A certificate of graduation duly issued to such child showing that such child is a graduate of a public school of the state of New York or elsewhere, having a course of not less than eight years, or of a school in the state of New York other than a public school, having a substantially equivalent course of study of not less than eight years' duration, in which a record of the attendance of such child has been kept as required by article twenty of the education law, provided that the record of such school shows such child to be at least fourteen years of age.

(c) Passport or baptismal certificate.—A passport or a duly attested transcript of a certificate of baptism showing the date of birth and place of baptism of such child.

(d) Other documentary evidence.—In case it shall appear to the satisfaction of the officer to whom application is made, as herein provided, for an employment certificate, that a child for whom such certificate is requested and who has presented the school record, is in fact over fourteen years of age, and that satisfactory documentary evidence of age can be produced, which does not fall within any of the provisions of the preceding subdivisions of this section, and that none of the papers mentioned in aid subdivisions can be produced, then and not otherwise he shall present to the board of health of which he is an officer or agent, for its action thereon, a statement signed by him showing such facts together with such affidavits or papers as may have been produced before him constituting such evidence of the age of such child, and the board of health, at a regular meeting thereof, may then, by resolution, provide that such evidence of age shall be fully entered on the minutes of such board, and shall be received as sufficient evidence of the age of such child for the purpose of this section.

(e) Physicians' certificates.—In cities of the first class only, in case application for the issuance of an employment certificate shall be made to such officer by a child's parent, guardian or custodian who alleges his inability to produce any of the evidence of age specified in the preceding subdivisions of this section, and if the child is apparently at least fourteen years of age, such officer may receive and file an application signed by the parent, guardian or custodian of such child for physicians' certificates. Such application shall contain the alleged age, place and date of birth, and present residence of such child, together with such further facts as may be of assistance in determining the age of such child. Such application shall be filed for not less than ninety days after date of such application for such physicians' certificates, for an examination to be made of the statements contained therein, and in case no facts appear within such period or by such examination tending to discredit or contradict any material statement of such application, then and not otherwise the officer may direct such child to appear thereafter for physical examination before two physicians officially designated by the board of health, and in case such physicians shall certify in writing that they have separately examined such child and that in their opinion such child is at least fourteen years of age such officer shall accept such certificates as sufficient proof of the age of such child for the purposes of this section. In case the opinions of such physicians do not concur, the child shall be examined

by a third physician and the concurring opinions shall be conclusive for the purpose of this section as to the age of such child.

Such officer shall require the evidence of age specified in subdivision (a) in preference to that specified in any subsequent subdivision and shall not accept the evidence of age permitted by any subsequent subdivision unless he shall receive and file in addition thereto an affidavit of the parent showing that no evidence of age specified in any preceding subdivision or subdivisions of this section can be produced. Such affidavit shall contain the age, place and date of birth, and present residence of such child, which affidavit must be taken before the officer issuing the employment certificate, who is hereby authorized and required to administer such oath and who shall not demand or receive a fee therefor. Such employment certificate shall not be issued until such child shall further have personally appeared before and been examined by the officer issuing the certificate, and until such officer shall, after making such examination, sign and file in his office a statement that the child can read and legibly write simple sentences in the English language and that in his opinion the child is fourteen years of age or upwards and has reached the normal development of a child of its age, and is in sound health and is physically able to perform the work which it intends to do. In doubtful cases such physical fitness shall be determined by a medical officer of the board or department of health. Every such employment certificate shall be signed in the presence of the officer issuing the same, by the child in whose name it is issued.

Compare § 71, *ante*, and notes. False statement in relation to the certificate or application therefor is specifically denounced as a misdemeanor by amendment to the Penal Law, § 1275, subd. 8.

**§ 164. Contents of certificate.**—Such certificate shall state the date and place of birth of the child, and describe the color of hair and eyes and the height and weight and any distinguishing facial marks of such child, and that the papers required by the preceding section have been duly examined, approved and filed and that the child named in such certificate has appeared before the officer signing the certificate and been examined.

Identical with § 72, *ante*.

**§ 165. School record, what to contain.**—The school record required by this article shall be signed by the principal or chief executive officer of the school which such child has attended and shall be furnished on demand to a child entitled thereto or to the board, department or commissioner of health. It shall contain a statement certifying that the child has regularly attended the public schools or schools equivalent thereto or parochial schools for not less than one hundred and thirty days during the twelve months next preceding his fourteenth birthday, or during the twelve months next preceding his application for such school record, and is able to read and write simple sentences in the English language, has received during such period instruction in reading, spelling, writing, English grammar and geography and is familiar with the fundamental operations of arithmetic up to and including fractions. Such school record shall also give the date of birth and residence of the child as shown on the records of the school and the name of its parents or guardian or custodian.

Identical with § 73, *ante*. Compare § 630 of Education Law, *post*.

**§ 166. Summer vacation certificate.**—Children of the age of twelve years



or more who can read and write simple sentences in the English language, may be employed in mercantile and other establishments specified in section one hundred and sixty-one, in villages and cities of the third class during the summer vacation of the public schools in the city or school district where such children reside, upon obtaining the vacation certificate herein provided. Such certificate shall be issued in the same manner, upon the same conditions, and on like proof that such child is twelve years of age or upwards, and is in sound health, as are required for the issuance of an employment certificate under this article, except that a school record of such child shall not be required. The certificates provided for in this section shall be designated summer vacation certificates, and shall correspond in form and substance as nearly as practicable to such employment certificate, and shall in addition thereto specify the time in which the same shall remain in force and effect, which in no case shall be other than the time in which the public schools where such children reside are closed for a summer vacation.

Section 162, *ante*, permits vacation work in cities of the second class also.

§ 167. Registry of children employed.—The owner, manager or agent of a mercantile or other establishment specified in section one hundred and sixty-one, employing children, shall keep or cause to be kept, in the office of such establishment, a register, in which shall be recorded the name, birthplace, age and place of residence of all children so employed under the age of sixteen years. Such register and the certificate filed in such office shall be produced for inspection, upon the demand of an officer of the board, department or commissioner of health of the town, village or city where such establishment is situated, or if such establishment is situated in a city of the first class upon the demand of the commissioner of labor. On termination of the employment of the child so registered and whose certificate is so filed, such certificate shall be forthwith surrendered by the employer to the child or its parent or guardian or custodian. An officer of the board, department or commissioner of health of the town, village or city where a mercantile or other establishment mentioned in this article is situated, or if such establishment is situated in a city of the first class the commissioner of labor, may make demand on an employer in whose establishment a child apparently under the age of sixteen years is employed or permitted or suffered to work, and whose employment certificate is not then filed as required by this chapter, that such employer shall either furnish him, within ten days, evidence satisfactory to him that such child is in fact over sixteen years of age, or shall cease to employ or permit or suffer such child to work in such establishment. The officer may require from such employer the same evidence of age of such child as is required on the issuance of an employment certificate; and the employer furnishing such evidence shall not be required to furnish any further evidence of the age of the child. A notice embodying such demand may be served on such employer personally or may be sent by mail addressed to him at said establishment, and if served by post shall be deemed to have been served at the time when the letter containing the same would be delivered in the ordinary course of the post. When the employer is a corporation such notice may be served either personally upon an officer of such corporation, or by sending it by post addressed to the office or the principal place of business of such corporation. The papers constituting such

evidence of age furnished by the employer in response to such demand shall, except in cities of the first class, be filed with the board, department or commissioner of health, and in cities of the first class with the commissioner of labor, and a material false statement made in any such paper or affidavit by any person shall be a misdemeanor. In case such employer shall fail to produce and deliver to the officer of the board, department or commissioner of health, or in cities of the first class to the commissioner of labor, within ten days after such demand such evidence of age herein required by him, and shall thereafter continue to employ such child or permit or suffer such child to work in such mercantile or other establishment, proof of the giving of such notice and of such failure to produce and file such evidence shall be prima facie evidence in any prosecution brought for a violation of this article that such child is under sixteen years of age and is unlawfully employed.

*Cf. § 76, ante.*

§ 168. **Wash-rooms and water-closets.**—Suitable and proper wash-rooms and water-closets shall be provided in, adjacent to or connected with mercantile establishments where women and children are employed. Such rooms and closets shall be so located and arranged as to be easily accessible to the employees of such establishments.

Such water-closets shall be properly screened and ventilated, and, at all times, kept in a clean condition. The water-closets assigned to the female employees of such establishments shall be separate from those assigned to the male employees.

If a mercantile establishment has not provided wash-rooms and water-closets, as required by this section, the board or department of health or health commissioners of the town, village or city where such establishment is situated, unless such establishment is situated in a city of the first class in which case the commissioner of labor shall cause to be served upon the owner, agent or lessee of the building occupied by such establishment a written notice of the omission and directing such owner, agent or lessee to comply with the provisions of this section respecting such wash-rooms and water-closets.

Such owner shall, within fifteen days after the receipt of such notice, cause such wash-rooms and water-closets to be provided.

*Cf. § 88, ante.*

§ 169. **Lunch-rooms.**—If a lunch-room is provided in a mercantile establishment where females are employed, such lunch-room shall not be next to or adjoining the water-closets, unless permission is first obtained from the board or department of health or health commissioners of the town, village or city where such mercantile establishment is situated, unless such establishment is situated in a city of the first class in which case such permission must be obtained from the commissioner of labor. Such permission shall be granted unless it appears that proper sanitary conditions do not exist, and it may be revoked at any time by the board or department of health or health commissioners, if it appears that such lunch-room is kept in a manner or in a part of a building injurious to the health of the employees, unless such establishment is situated in a city of the first class in which case said permission may be so revoked by the commissioner of labor.

§ 170. **Seats for women in mercantile establishments.**—Chairs, stools or other suitable seats shall be maintained in mercantile establishments for the use of female employees therein, to the number of at least one seat for every three females employed, and the use thereof by such employees shall be allowed at such times and to such extent as may be necessary for the preservation of their health. If the duties of the female employees, for the use of whom the seats are furnished, are to be principally performed in front of a counter, table, desk or fixture, such seats shall be placed in front thereof; if such duties are to be principally performed behind such counter, table, desk or fixture, such seats shall be placed behind the same.

*Cf. § 17, ante.*

§ 171. **Employment of women and children in basements.**—Women or children shall not be employed or permitted to work in the basement of a mercantile establishment, unless permitted by the board or department of health, or health commissioner of the town, village or city where such mercantile establishment is situated, unless such establishment is situated in a city of the first class in which case such permission must be obtained from the commissioner of labor. Such permission shall be granted unless it appears that such basement is not sufficiently lighted and ventilated, and is not in good sanitary condition.

§ 172. **Enforcement of article.**—Except in cities of the first class the board or department of health or health commissioners of a town, village or city affected by this article shall enforce the same and prosecute all violations thereof. Proceedings to prosecute such violations must be begun within sixty days after the alleged offense was committed. All officers and members of such boards, or department, all health commissioners, inspectors and other persons appointed or designated by such boards, departments or commissioners may visit and inspect, at reasonable hours and when practicable and necessary, all mercantile or other establishments herein specified within the town, village or city for which they are appointed. No person shall interfere with or prevent any such officer from making such visitations and inspections, nor shall he be obstructed or injured by force or otherwise while in the performance of his duties. All persons connected with any such mercantile or other establishment herein specified shall properly answer all questions asked by such officer or inspector in reference to any of the provisions of this article. In cities of the first class the commissioner of labor shall enforce the provisions of this article, and for that purpose he and his subordinates shall possess all powers herein, conferred upon town, village, or city boards and departments of health and their commissioners, inspectors, and other officers, except that the board or department of health of said cities of the first class shall continue to issue employment certificates as provided in section one hundred and sixty-three of this chapter.

§ 173. **Copy of article to be posted.**—A copy of this article shall be posted in a conspicuous place on every floor in each establishment wherein three or more persons are employed who are affected by its provisions.

ARTICLE 12.

Bureau of Mercantile Inspection.

Section 180. Mercantile Inspector.

181. Deputies.

182. General powers and duties.

183. Reports.

184. Laws to be posted.

§ 180. Mercantile inspector.—There shall be a bureau of mercantile inspection, which shall be under the immediate charge of a mercantile inspector, but subject to the direction and supervision of the commissioner of labor. The mercantile inspector shall be appointed and be at pleasure removed by the commissioner of labor, and shall receive such annual salary not to exceed three thousand dollars as may be appropriated therefor. [*As am'd by L. 1910, ch. 516.*]

*Cf. § 42, ante.*

§ 181. Deputies.—The commissioner of labor may appoint from time to time not more than ten deputy mercantile inspectors, not less than two of whom shall be women, and who may be removed by him at any time. The deputy mercantile inspectors may be divided into three grades, but not more than two shall be of the third grade. Each deputy inspector of the first grade shall receive an annual salary of one thousand dollars, each of the second grade an annual salary of one thousand two hundred dollars, and each of the third grade an annual salary of one thousand five hundred dollars.

§ 182. General powers and duties.—1. The commissioner of labor may divide the cities of the first class of the state into districts, assign one or more deputy mercantile inspectors to each district, and may in his discretion transfer them from one district to another; he may assign any of them to inspect any special class or classes of mercantile or other establishments specified in article eleven of this chapter, situated in cities of the first class, or to enforce in cities of the first class any special provisions of such article.

2. The commissioner of labor may authorize any deputy commissioner or assistant and any special agent or inspector in the department of labor to act as a deputy mercantile inspector with the full power and authority thereof.

3. The commissioner of labor, the mercantile inspector and his assistant or assistants and every deputy or acting deputy mercantile inspector may in the discharge of his duties enter any place, building or room in cities of the first class where any labor is performed which is affected by the provisions of article eleven of this chapter, and may enter any mercantile or other establishment specified in said article, situated in cities of the first class, whenever he may have reasonable cause to believe that any such labor is performed therein.

4. The commissioner of labor shall visit and inspect or cause to be visited and inspected the mercantile and other establishments specified in article eleven of this chapter situated in cities of the first class, as often as practicable, and shall cause the provisions of said article to be enforced therein.

5. Any lawful municipal ordinance, by-law or regulation relating to mercantile and other establishments specified in article eleven of this chapter, in addition to the provisions of this chapter and not in conflict therewith, may be enforced by the commissioner of labor in cities of the first class.

§ 183. Reports.—The commissioner of labor shall make an annual report to the legislature of the operation of this bureau.

§ 184. Laws to be posted.—A copy or abstract of the applicable provisions of this chapter, to be prepared and furnished by the commissioner of labor, shall be kept posted by the employer in a conspicuous place on each floor of every mercantile or other establishment specified in article eleven of this chapter, situated in a city of the first class, wherein three or more persons are employed who are affected by such provisions.

### ARTICLE 13.

#### Convict-made Goods and Duties of Commissioner of Labor Relative Thereto.

[Compare § 620 of the Penal Law, *post*. See also subject PRISON LABOR, *post*. As to constitutionality see *People v. Beattie*, 96 App. Div. 383; *People ex rel. Appel v. Zimmerman*, 102 App. Div. 103; *People v. Hawkins*, 157 N. Y. 1; and *People ex rel. Phillips v. Raynes*, 136 App. Div. 417, *aff'd* 198 N. Y. Mem. 59. Also *Constitution*, art. 3, § 29, under PRISON LABOR, *post*.]

#### Section 190. License for sale of convict-made goods.

191. Revocation of license.

192. Annual statement of licensee.

193. Labeling and marking convict-made goods.

194. Duties of commissioner of labor relative to violations; fines upon convictions.

195. Article not to apply to goods manufactured for use of state or a municipal corporation.

§ 190. License for sale of convict-made goods.—No person or corporation shall sell, or expose for sale, any convict-made goods, wares or merchandise, either by sample or otherwise, without a license therefor. Such license may be obtained upon application in writing to the comptroller, setting forth the residence or post-office address of the applicant, the class of goods desired to be dealt in, the town, village or city, with the street number, if any, at which the business of such applicant is to be located. Such application shall be accompanied with a bond, executed by two or more responsible citizens, or some legally incorporated surety company authorized to do business in this state, to be approved by the comptroller, in the sum of five thousand dollars, and conditioned that such applicant will comply with all the provisions of law relative to the sale of convict-made goods, wares and merchandise. Such license shall be for a term of one year unless sooner revoked. Such person or corporation shall pay, annually, on or before the fifteenth day of January, the sum of five hundred dollars as a license fee, into the treasury of the state, which amount shall be credited to the maintenance account of the state prisons.

Such license shall be kept conspicuously posted in the place of business of such licensee.

The requirement of a license as in this section is unconstitutional: *People ex rel. Phillips v. Rayner*, 136 App. Div. 417, *aff'd* 198 N. Y. Mem. 39.

Products of labor of prisoners in this state not to be sold: *Const.*, art. III, § 29, *post*.

§ 191. Revocation of license.—The comptroller may revoke the license of any such person or corporation, upon satisfactory evidence of, or upon conviction for the violation of any statute regulating the sale of convict-made

good, wares or merchandise; such revocation shall not be made until after due notice to the licensee so complained of. For the purpose of this section, the comptroller or any person duly appointed by him, may administer oaths and subpoena witnesses and take and hear testimony.

§ 192. **Annual statement of licensee.**—Each person or corporation so licensed shall, annually, on or before the fifteenth day of January, transmit to the secretary of state a verified statement setting forth:

1. The name of the person or corporation licensed.
2. The names of the persons, agents, wardens or keepers of any prison, jail, penitentiary, reformatory or establishment using convict labor, with whom he has done business, and the name and address of the person or corporation to whom he has sold goods, wares and merchandise, and
3. In general terms, the amount paid to each of such agents, wardens or keepers, for goods, wares or merchandise and the character thereof.

§ 193. **Labeling and marking convict-made goods.**—All goods, wares and merchandise made by convict labor in a penitentiary, prison, reformatory or other establishment in which convict labor is employed, shall be branded, labeled or marked as herein provided. The brand, label or mark, used for such purpose, shall contain at the head or top thereof, the words "convict-made," followed by the year when, and the name of the penitentiary, prison, reformatory or other establishment in which the article branded, labeled or marked was made.

Such brands, labels and marks shall be printed in plain English lettering, of the style and size known as great primer Roman condensed capitals. A brand or mark shall be used in all cases where the nature of the article will permit and only where such branding or marking is impossible shall a label be used. Such label shall be in the form of a paper tag and shall be attached by wire to each article, where the nature of the article will permit, and shall be placed securely upon the box, crate or other covering in which such goods, wares or merchandise are packed, shipped or exposed for sale.

Such brand, mark or label shall be placed upon the most conspicuous part of the finished article and its box, crate or covering.

No convict-made goods, wares or merchandise shall be sold or exposed for sale without such brand, mark or label.

The requirement of branding of goods from other states was held unconstitutional in 1898 in *People v. Hawkins*, 157 N. Y. 1.

§ 194. **Duties of commissioner of labor relative to violations; fines upon convictions.**—The commissioner of labor shall enforce the provisions of this article. If he has reason to believe that any of such provisions are being violated, he shall advise the district attorney of the county wherein such alleged violation has occurred of such fact, giving the information in support of his conclusion. The district attorney shall, at once, institute the proper proceedings to compel compliance with this article and secure conviction for such violations.

Upon the conviction of a person or corporation for a violation of this article, one-half of the fine recovered shall be paid and certified by the district attorney to the commissioner of labor, who shall use such money in investigating and securing information in regard to violations of this chapter, and in paying the expenses of such conviction.

*Cf. Penal Law, § 620, post.*

§ 195. Article not to apply to goods manufactured for use of state or a municipal corporation.—Nothing in this article shall apply to or affect the manufacture in state prisons, reformatories and penitentiaries, and furnishing of articles for the use of the offices, departments and institutions of the state or any political division thereof, as provided by section one hundred fifty-eight, one hundred seventy to one hundred seventy-five, both inclusive, one hundred seventy-seven, one hundred seventy-eight, one hundred eighty-one, one hundred eighty-three, one hundred eighty-five, one hundred eighty-six, one hundred eighty-nine, and one hundred ninety-one of the prison law.

#### ARTICLE 14.

##### Employer's Liability.

[In the case of railway employees there should be read with this article section 64 of the Railroad Law given under DUTIES AND LIABILITIES OF EMPLOYERS AND EMPLOYEES, post. Cf. also article 14-a, post.]

##### Section 200. Employer's liability for injuries.

201. Notice to be served.
202. Assumption of risks; contributory negligence, when a question of fact.
- 202-a. Trial; burden of proof.
203. Defense; insurance fund.
204. Existing rights of action continued.
205. Consent by employer and employee to compensation plan.
206. Liability to pay compensation; notice of accident.
207. Amount of compensation; persons entitled; physical examination.
208. Settlement of disputes.
209. Preferential claim; not assignable or subject to attachment; attorney's fee.
210. Cancellation of consent.
211. Reports of compensation plan.
212. Reports by employer.

§ 200. Employer's liability for injuries.—When personal injury is caused to an employee who is himself in the exercise of due care and diligence at the time:

1. By reason of any defect in the condition of the ways, works, machinery, or plant, connected with or used in the business of the employer which arose from or had not been discovered or remedied owing to the negligence of the employer or of any person in the service of the employer and intrusted by him with the duty of seeing that the ways, works, machinery, or plant, were in proper condition;

2. By reason of the negligence of any person in the service of the employer intrusted with any superintendence or by reason of the negligence of any person intrusted with authority to direct, control or command any employee in the performance of the duty of such employee. The employee, or in case the injury results in death, the executor or administrator of a deceased employee who has left him surviving a husband, wife or next of kin, shall have the same right of compensation and remedies against the employer as if the employee had not been an employee of nor in the service of the employer nor engaged in his work. The provisions of law relating to actions for causing death by negligence, so far as the same are consistent with this act, shall apply to an action brought by an executor or administrator of a deceased employee, suing under the provisions of this

article. If an employer enters into a contract, written or verbal, with an independent contractor to do part of such employer's work, or if such contractor enters into a contract with a subcontractor to do all or any part of the work comprised in such contractor's contract with the employer, such contract or subcontract shall not bar the liability of the employer for the injuries to the employees of such contractor or subcontractor, caused by any defect in the condition of the ways, works, machinery, or plant, if they are the property of the employer or are furnished by him, and if such defect arose, or had not been discovered or remedied, through the negligence of the employer, or of some person intrusted by him with the duty of seeing that they were in proper condition. [*As am'd by L. 1910, ch. 352.*]

§ 201. **Notice to be served.**—No action for recovery of compensation for injury or death under this article shall be maintained unless notice of the time, place and cause of the injury is given to the employer within one hundred and twenty days and the action is commenced within one year after the occurrence of the accident causing the injury or death. The notice required by this section shall be in writing and signed by the person injured or by some one in his behalf, but if from physical or mental incapacity it is impossible for the person injured to give notice within the time provided in this section, he may give the same within ten days after such incapacity is removed. In case of his death without having given such notice, his executor or administrator may give such notice within sixty days after his appointment, but no notice under the provisions of this section shall be deemed to be invalid or insufficient solely by reason of any inaccuracy in stating the time, place or cause of the injury if it be shown that there was no intention to mislead and that the party entitled to notice was not in fact misled thereby. If such notice does not apprise the employer of the time, place or cause of injury, he may, within eight days after service thereof, serve upon the sender a written demand for a further notice, which demand must specify the particular in which the first notice is claimed to be defective, and a failure by the employer to make such demand as herein provided shall be a waiver of all defects that the notice may contain. After service of such demand as herein provided, the sender of such notice may at any time within eight days thereafter serve an amended notice which shall supersede such first notice and have the same effect as an original notice hereunder. The notice required by this section shall be served on the employer, or if there is more than one employer, upon one of such employers, and may be served by delivering the same to or at the residence or place of business of the person on whom it is to be served. The notice or demand may be served by post by letter addressed to the person on whom it is to be served, at his last known place of residence or place of business, and if served by post shall be deemed to have been served at the time when the letter containing the same would be delivered in the ordinary course of the post. When the employer is a corporation, notice shall be served by delivering the same or by sending it by post addressed to the office or principal place of business of such corporation. [*As am'd by L. 1910, ch. 352.*]

§ 202. **Assumption of risks; contributory negligence, when a question of fact.**—An employee by entering upon or continuing in the service of the employer shall be presumed to have assented to the necessary risks of the



occupation or employment and no others. The necessary risks of the occupation or employment shall, in all cases arising after this article takes effect, be considered as including those risks, and those only, inherent in the nature of the business which remain after the employer has exercised due care in providing for the safety of his employees, and has complied with the laws affecting or regulating such business or occupation for the greater safety of such employees. In an action brought to recover damages for personal injury or for death resulting therefrom received after this act takes effect, owing to any cause, including open and visible defects, for which the employer would be liable but for the hitherto available defense of assumption of risk by the employee, the fact that the employee continued in the service of the employer in the same place and course of employment after the discovery by such employee, or after he had been informed of the danger of personal injury therefrom shall not be, as matter of fact or as matter of law, an assumption of the risk of injury therefrom, but an employee, or his legal representative, shall not be entitled under this article to any right of compensation or remedy against the employer in any case where such employee knew of the defect or negligence which caused the injury and failed, within a reasonable time, to give, or cause to be given, information thereof to the employer, or to some person superior to himself in the service of the employer, or who had intrusted to him some superintendence, unless it shall appear on the trial that such defect or negligence was known to such employer, or superior person, prior to such injuries to the employee; or unless such defect could have been discovered by such employer by reasonable and proper care, tests or inspection. [*As am'd by L. 1910, ch. 352.*]

§ 202-a. **Trial; burden of proof.**—On the trial of any action brought by an employee or his personal representative to recover damages for negligence arising out of and in the course of such employment, contributory negligence of the injured employee shall be a defense to be so pleaded and proved by the defendant. [*Added by L. 1910, ch. 352.*]

§ 203. **Defense; insurance fund.**—An employer who shall have contributed to an insurance fund created and maintained for the mutual purpose of indemnifying an employee for personal injuries, for which compensation may be recovered under this article, or to any relief society or benefit fund created under the laws of this state, may prove in mitigation of damages recoverable by an employee under this article such proportion of the pecuniary benefit which has been received by such employee from such fund or society on account of such contribution of the employer, as the contribution of such employer to such fund or society bears to the whole contribution thereto.

Under the common law an agreement relieving the employer from liability is void. *Johnston v. Fargo*, as President of the American Express Company, 184 N. Y. 379 (1906), aff'g 93 App. Div. 436.

§ 204. **Existing rights of action continued.**—Every existing right of action for negligence or to recover damages for injuries resulting in death is continued and nothing in this article contained shall be construed as limiting any such right of action, nor shall the failure to give the notice provided for in section two hundred and one of this article be a bar to the maintenance of a suit upon any such existing right of action.

§ 205. **Consent by employer and employee to compensation plan.**—When and if any employer in this state and any of his employees shall consent to

the compensation plan described in sections two hundred and six to two hundred and twelve, inclusive, of this article, hereinafter referred to as the plan, and shall signify their consent thereto in writing signed by each of them or their authorized agents, and acknowledged in the manner prescribed by law for taking the acknowledgment of a conveyance of real property, and such writing is filed with the county clerk of the county in which it is signed by the employee, then so long as such consent has not expired or been canceled as hereinafter provided, such employee, or in case injury to him results in death, his executor or administrator, shall have no other right of action against the employer for personal injury or death of any kind, under any statute or at common law, save under the plan so consented to, except where personal injury to the employee is caused in whole or in part by the failure of the employer to obey a valid order made by the commissioner of labor or other public authority authorized to require the employer to safeguard his employees, or where such injury is caused by the serious or willful misconduct of the employer. In such excepted cases thus described, no right of action which the employee has at common law or by any other statute shall be affected or lost by his consent to the plan, if such employee, or in case of death his executor or administrator, commences such action before accepting any benefit under such plan or giving any notice of injury as provided in section two hundred and six hereof. The commencing of any legal action whatsoever at common law or by any statute against the employer on account of such injury, except under the plan, shall bar the employee, and in the event of his death his executors, administrators, dependents and other beneficiaries, from all benefit under the plan. This section and sections two hundred and six to two hundred and twelve, inclusive, of this article shall not apply to a railroad corporation, foreign or domestic, doing business in this state, or a receiver thereof, or to any person employed by such corporation or receiver. [Added by L. 1910, ch. 352.]

§ 206. **Liability to pay compensation; notice of accident.**—If personal injury by accident arising out of and in the course of the employment is caused to the employee, the employer shall, subject as hereinafter mentioned, be liable to pay compensation under the plan at the rates set out in section two hundred and seven of this article: provided that the employer shall not be liable in respect of any injury which does not disable the employee for a period of at least two weeks from earning full wages at the work at which he was employed, and that the employer shall not be liable in respect of any injury to the employee which is caused by the serious and willful misconduct of that employee. No proceedings for recovery under the plan provided hereby shall be maintained unless notice of the accident has been given to the employer as soon as practicable after the happening thereof and before the employee has voluntarily left the employment in which he was injured and during such disability, and unless claim for compensation with respect to the accident has been made within six months from the occurrence of the accident, or in the case of death of the employee, or in the event of his physical or mental incapacity within six months after such death or removal of such physical or mental incapacity, or in the event that weekly payments have been made under the plan, within six months after such payments have ceased; but no want of or defect or inaccuracy of a notice

shall be a bar to the maintenance of proceedings under the plan unless the employer proves that he is prejudiced by such want, defect or inaccuracy. Notice of the accident shall apprise the employer of the claim for compensation under this plan and shall state the name and address of the employee injured, the date and place of the accident and in simple language the cause thereof. The notice may be served personally or by sending it by mail in a registered letter addressed to the employer at his last known residence or place of business. [Added by L. 1910, ch. 352.]

§ 207. Amount of compensation; persons entitled; physical examination.—The amount of compensation under the plan shall be: 1. In case death results from injury:

(a) If the employee leaves a widow or next of kin at the time of his death wholly dependent on his earnings, a sum equal to twelve hundred times the daily earnings of the employee at the rate at which he was being paid by the employer at the time of the accident, but not more in any event than three thousand dollars. Any weekly payments previously made under the plan shall be deducted in ascertaining such amount payable on death.

(b) If such widow or next of kin or any of them are in part only dependent upon his earnings, such sum not exceeding that provided in subdivision a as may be determined to be reasonable and proportionate to the injury to such dependents.

(c) If he leaves no widow, or next of kin so dependent in whole or in part, the reasonable expenses of his medical attendance and burial, not exceeding one hundred dollars. Whatever sum may be determined to be payable under the plan, in case of death of the injured employee, shall be paid to his legal representative for the benefit of such dependents, or if he leaves no such dependents, for the benefit of the person to whom the expenses of medical attendance and burial are due.

2. Where total or partial incapacity for work at any gainful employment results to the employee from the injury, a weekly payment commencing at the end of the second week after the injury and continuing during incapacity, subject as herein provided, not exceeding fifty per centum of his average weekly earnings when at work on full time during the preceding year during which he shall have been in the employment of the same employer, or if he shall have been employed less than a year, then a weekly payment of not exceeding three times the average daily earnings on full time for such less period.

In fixing the amount of the weekly payment, regard shall be had to any payment, allowance or benefit which the workman may have received from the employer during the period of his incapacity, and in the case of partial incapacity the weekly payment shall in no case exceed the difference between the amount of the average weekly earnings of the workman before the accident and the average amount which he is earning or is able to earn in some suitable employment or business after the accident but shall amount to one-half of such difference. In no event shall any weekly payment payable under the plan exceed ten dollars per week or extend over more than eight years from the date of the accident. Any person entitled to receive weekly payments under the plan is required, if requested by the employer, to submit himself for examination by a duly qualified medical practitioner

or surgeon provided and paid for by the employer, at a time and place reasonably convenient for the employee, within three weeks after the injury, and thereafter at intervals not oftener than once in six weeks. If the workman refuses so to submit or obstructs the same, his right to weekly payments shall be suspended until such examination shall have taken place, and no compensation shall be payable under the plan during such period. In case an injured employee shall be mentally incompetent at the time when any right or privilege accrues to him under the plan, a committee or guardian of the incompetent appointed pursuant to law may, on behalf of such incompetent, claim and exercise any such right or privilege with the same force and effect as if the employee himself had been competent and had claimed or exercised any such right or privilege; and no limitation of time herein provided for shall run so long as said incompetent employee has no committee or guardian. [*Added by L. 1910, ch. 352.*]

§ 208. **Settlement of disputes.**—Any question of law or fact arising in regard to the application of the plan in determining the compensation payable thereunder or otherwise shall be determined either by agreement or by arbitration as provided in the code of civil procedure, or by an action at law as herein provided. In case the employer shall be in default in any of his obligations to the employee under the plan, the injured employee or his committee or guardian, if such be appointed, or his executor or administrator, may then bring an action to recover compensation under the plan in any court having jurisdiction thereof as on a written contract. Such action shall be conducted in the same manner as an action at law for the recovery of damages for breach of a written contract, and shall for all purposes, including the determination of jurisdiction, be deemed such an action. The judgment in such action, in favor of the plaintiff, shall be for a lump sum equal to the amount of the payments then due and prospectively due under the plan. In such action by an executor or administrator the judgment may provide the proportions of the award or the costs to be distributed to or between the several dependents. If such determination is not made it shall be determined by the surrogate's court by which such executor or administrator is appointed, in accordance with the terms of this article on petition of any party on such notice as such court may direct. [*Added by L. 1910, ch. 352.*]

§ 209. **Preferential claim; not assignable or subject to attachment; attorney's fee.**—Any person entitled to weekly payments under the plan against any employer shall have the same preferential claim therefor against the assets of the employer as now allowed by law for a claim by such person against such employer for unpaid wages or personal services. Weekly payments due under the plan shall not be assignable or subject to attachment, levy or execution. No claim of an attorney for any contingent interest in any recovery under the plan for services in securing such recovery shall be an enforceable lien thereon, unless the amount of the same be approved in writing by a justice of the supreme court, or in case the same is tried in any court, before the justice presiding at such trial. [*Added by L. 1910, ch. 352.*]

§ 210. **Cancellation of consent.**—When a consent to the plan shall have been filed in the office of the county clerk as herein provided, it shall be

binding upon both parties thereto as long as the relation of employer and employee exists between the parties, and expire at the end of such employment, but it may at any time be canceled on sixty days' notice in writing from either party to the other. Such notice of cancellation shall be effective only if served personally or sent by registered letter to the last known post-office address of the party to whom it is addressed, but no notice of cancellation shall be effective as to a claim for injury occurring previous thereto. [Added by L. 1910, ch. 352.]

§ 211. **Reports of compensation plan.**—Each employer who shall sign with any employee a consent to the plan shall, within thirty days thereafter, file with the commissioner of labor a statement thereof, signed by such employer, which shall show (a) the name of the employer and his post-office address, (b) the name of the employee and his last known post-office address, (c) the date of, and office where the original consent is filed, (d) the weekly wage of the employee at the time the consent is signed; unless such statement is duly filed, such consent of the employee shall not be a bar to any proceeding at law commenced by the employee against the employer. [Added by L. 1910, ch. 352.]

§ 212. **Reports by employer.**—Each employer of labor in this state who shall have entered into the plan with any employee shall, on or before the first day of January, nineteen hundred and eleven, and thereafter and at such times as may be required by the commissioner of labor, make a report to such commissioner of all amounts, if any, paid by him under such plan to injured employees, stating the name of such employees, and showing separately the amounts paid under agreement with the employees, and the amounts paid after proceedings at law, and the proceedings at law under the plan then pending. Such reports shall be verified by the employer or a duly authorized agent in the same manner as affidavits. [Added by L. 1910, ch. 352.]

#### ARTICLE 14-a.

##### Workmen's Compensation in Certain Dangerous Employments.

[Added by L. 1910, ch. 874. *The Appellate Division of the Supreme Court, Fourth Department, has upheld the constitutionality of this article in Ives v. South Buffalo Ry. Co. (decided Oct. 21, 1910). This case, on appeal, was heard in the Court of Appeals on January 16, 1911.*]

Section 215. Application of article.

216. Definitions.

217. Basis of liability.

218. Rights of action not affected.

219. Notice of accident.

219-a. Scale of compensation.

219-b. Medical examinations.

219-c. Incompetency of workman.

219-d. Settlement of disputes.

219-e. Preferences and exemptions.

219-f. Attorneys' fees.

219-g. Liability of principal contractors.

§ 215. **Application of article.**—This article shall apply only to workmen engaged in manual or mechanical labor in the following employments, each of which is hereby determined to be especially dangerous, in which from

the nature, conditions or means of prosecution of the work therein, extraordinary risks to the life and limb of workmen engaged therein are inherent, necessary or substantially unavoidable, and as to each of which employments it is deemed necessary to establish a new system of compensation for accidents to workmen.

1. The erection or demolition of any bridge or building in which there is, or in which the plans and specifications require, iron or steel frame work.

2. The operation of elevators, elevating machines or derricks or hoisting apparatus used within or on the outside of any bridge or building for the conveying of materials in connection with the erection or demolition of such bridge or building.

3. Work on scaffolds of any kind elevated twenty feet or more above the ground, water, or floor beneath in the erection, construction, painting, alteration or repair of buildings, bridges or structures.

4. Construction, operation, alteration or repair of wires, cables, switchboards or apparatus charged with electric currents.

5. All work necessitating dangerous proximity to gunpowder, blasting powder, dynamite or any other explosives, where the same are used as instrumentalities of the industry.

6. The operation on steam railroads of locomotives, engines, trains, motors or cars propelled by gravity or steam, electricity or other mechanical power, or the construction or repair of steam railroad tracks and road beds over which such locomotives, engines, trains, motors or cars are operated.

7. The construction of tunnels and subways.

8. All work carried on under compressed air.

§ 216. **Definitions.**—The words, "employer," "workman" and "employment," or their plurals, used in this article, shall be construed to apply to all the employments above described.

§ 217. **Basis of liability.**—If, in the course of any of the employments above described, personal injury by accident arising out of and in the course of the employment after this article takes effect is caused to any workman employed therein, in whole or in part, or the damage or injury caused thereby is in whole or part contributed to by

a. A necessary risk or danger of the employment or one inherent in the nature thereof; or

b. Failure of the employer of such workman or any of his or its officers, agents or employees to exercise due care, or to comply with any law affecting such employment; then such employer shall, subject as hereinafter mentioned, be liable to pay compensation at the rates set out in section two hundred and nineteen-a of this title; provided that the employer shall not be liable in respect of any injury which does not disable the workman for a period of at least two weeks from earning full wages at the work at which he was employed, and provided that the employer shall not be liable in respect of any injury to the workman which is caused in whole or in part by the serious and willful misconduct of the workman.

§ 218. **Rights of action not affected.**—The right of action for damages caused by any such injury, at common law or under any statute in force on January one, nineteen hundred and ten, shall not be affected by this article, and every existing right of action for negligence or to recover damages for

injuries resulting in death is continued, and nothing in this article shall be construed as limiting such right of action, but in case the injured workman, or in event of his death his executor or administrator, shall avail himself of this article, either by accepting any compensation hereunder in accordance with section two hundred and nineteen-a hereof or by beginning proceedings therefor in any manner on account of any such injury, he shall be barred from recovery in and deemed thereby to have released every other action at common law or under any other statute on account of the same injury after this article takes effect. In case after such injury the workman, or in the event of his death his executor or administrator, shall commence any action at common law or under any statute other than this article against the employer therefor he shall be barred from all benefit of this article in regard thereto.

§ 219. **Notice of accident.**—No proceedings for compensation under this article shall be maintained unless notice of the accident as hereinafter provided has been given to the employer as soon as practicable after the happening thereof and before the workman has voluntarily left the employment in which he was injured, and during such disability, but no want or defect or inaccuracy of a notice shall be a bar to the maintenance of proceedings unless the employer proves that he is prejudiced by such want, defect or inaccuracy. Notice of the accident shall state the name and address of the workman injured, the date and place of the accident, and in simple language the physical cause thereof, if known. The notice may be served personally or by sending it by mail in a registered letter addressed to the employer at his last known residence or place of business.

§ 219-a. **Scale of compensation.**—The amount of compensation shall be in case death results from injury:

a. If the workman leaves a widow or next of kin at the time of his death wholly dependent on his earnings, a sum equal to twelve hundred times the daily earnings of such workman at the rate at which he was being paid by such employer at the time of the injury subject as hereinafter provided, and in no event more than three thousand dollars. Any weekly payments made under this article shall be deducted in ascertaining such amount.

b. If such widow or next of kin at the time of his death are in part only dependent upon his earnings, such proportionate sum not exceeding that provided in subdivision a as may be determined according to the injury to such dependents.

c. If he leaves no dependents, the reasonable expenses of his medical attendance and burial, not exceeding one hundred dollars.

Whatever sum may be determined to be payable under this article in case of death of the injured workman shall be paid to his legal representative for the benefit of such dependents, or if he leaves no such dependents, for the benefit of the persons to whom the expenses of medical attendance and burial are due.

2. Where total or partial incapacity for work at any gainful employment results to the workman from the injury, a weekly payment commencing at the end of the second week after the injury and continuing during such incapacity, subject as herein provided, equal to fifty per centum of his average weekly earnings when at work on full time during the preceding year during

which he shall have been in the employment of the same employer, or if he shall have been in the employment of the same employer for less than a year, then a weekly payment of not exceeding three times the average daily earnings on full time for such less period. In fixing the amount of the weekly payment, regard shall be had to the difference between the amount of the average earnings of the workman before the accident and the average amount he is able to earn thereafter as wages in the same employment or otherwise. In fixing the amount of the weekly payment, regard shall be had to any payment, allowance or benefit which the workman may have received from the employer during the period of his incapacity, and in the case of partial incapacity the weekly payment shall in no case exceed the difference between the amount of the average weekly earnings of the workman before the accident and the average weekly amount which he is earning or is able to earn in the same employment or otherwise after the accident, but shall amount to one-half of such difference. In no event shall any compensation paid under this article exceed the damage suffered, nor shall any weekly payment payable under this article in any event exceed ten dollars a week or extend over more than eight years from the date of the accident.

§ 219-b. **Medical examinations.**—Any workman entitled to receive weekly payments under this article is required, if requested by the employer, to submit himself for examination by a duly qualified medical practitioner or surgeon provided and paid for by the employer, at a time and place reasonably convenient for the workman, within three weeks after the injury, and thereafter at intervals not oftener than once in six weeks. If the workman refuses to submit to such examination, or obstructs the same, his right to weekly payments shall be suspended until such examination has taken place, and no compensation shall be payable during or for account of such period.

§ 219-c. **Incompetency of workman.**—In case an injured workman shall be mentally incompetent at the time when any right or privilege accrues to him under this article, a committee or guardian of the incompetent appointed pursuant to the law may, on behalf of such incompetent, claim and exercise any such right or privilege with the same force and effect as if the workman himself had been competent and had claimed or exercised any such right or privilege; and no limitation of time in this article provided for shall run so long as said incompetent workman has no committee or guardian.

§ 219-d. **Settlement of disputes.**—Any question which may arise under this act shall be determined either by agreement or by arbitration as provided in the code of civil procedure or by an action at law as herein provided. In case the employer fail to make compensation as herein provided, the injured workman, or his committee or guardian, if such be appointed, or his executor or administrator, may then bring an action to recover compensation under this article in any court having jurisdiction thereof, or in any court which would have had jurisdiction of an action for recovery of damages for negligence for the same injury between the same parties. This article however shall not be construed as extending the jurisdiction of any such court to award judgment for an amount greater than now allowed by law. Such action shall be conducted in the same manner as actions at law for the recovery of damages for negligence. The judgment in such action if in favor



of the plaintiff shall be for a sum equal to the amount of payments then due and prospectively due under this article. Such action must be commenced within six months after the happening of the accident or in case of the death of the workman by such accident within six months after the appointment of his legal representative in this state, or in the event of his physical incapacity, within six months after the removal thereof, or in the event of weekly payments by the employer hereunder, within six months after such payments have ceased. In such action by an executor or administrator the judgment may provide the proportions of the award or the costs to be distributed to or between the several dependents. If such determination is not made it shall be determined by the surrogate's court, in which such executor or administrator is appointed, in accordance with this article, on petition of any party interested on such notice as such court may direct.

§ 219-e. **Preferences and exemptions.**—Any person entitled to weekly payments under this article against any employer shall have the same preferential claim therefor against the assets of the employer as allowed by law for a claim by such person against such employer for unpaid wages or personal services. Weekly payments due under this article shall not be assignable or subject to levy, execution or attachment.

§ 219-f. **Attorneys' liens.**—No claim of an attorney-at-law for any contingent interest in any recovery under this article for services in securing such recovery or for disbursements shall be an enforceable lien on such recovery, unless the amount of the same be approved in writing by a justice of the supreme court, or in case the same be tried in any court, by the justice presiding at such trial.

§ 219-g. **Liability of principal contractors.**—If an employer who shall be the principal enters into a contract with an independent contractor to do part of such employer's work, or if such contractor enters into a contract with a subcontractor to do all or any part of the work comprised in such contractor's contract with the employer, the said principal shall be liable to pay to any workman employed in the execution of the work any compensation under this article which he would have been liable to pay if that workman had been immediately employed by him; and where compensation is claimed from or proceedings are taken against the principal then, in the application of this article, references to the principal shall be substituted for references to the employer, except that the amount of compensation shall be calculated with reference to the earnings of the workman under the contractor or employer by whom he is immediately employed. Where such principal is liable to pay compensation he shall be entitled to be indemnified by any person who would have been liable to pay compensation to the workman independently of this section. Nothing in this section shall be construed as preventing a workman from recovering compensation under this article from the contractor or subcontractor, instead of the principal; nor shall this section apply in any case where the accident shall occur elsewhere than on, or in, or about the premises on which the principal has undertaken to execute the work or which are otherwise under his control or management.

ARTICLE 15.

Employment of Children in Street Trades.

Section 220. Prohibited employment of children in street trades.

221. Permit and badge for newsboys, how issued.

222. Contents of permit and badge.

223. Regulations concerning badge and permit.

224. Limit of hours.

225. Enforcement of article.

226. Violation of this article, how punished.

§ 220. Prohibited employment of children in street trades.—No male child under ten, and no girl under sixteen years of age, shall in any city of the first or second class sell or expose or offer for sale newspapers, magazines or periodicals in any street or public place.

§ 221. Permit and badge for newsboys, how issued.—No male child under fourteen years of age shall sell or expose or offer for sale said articles unless a permit and badge as hereinafter provided shall have been issued to him by the district superintendent of the board of education of the city and school district where said child resides, or by such other officer thereof as may be officially designated by such board for that purpose, on the application of the parent, guardian or other person having the custody of the child desiring such permit and badge, or in case said child has no parent, guardian or custodian then on the application of his next friend, being an adult. Such permit and badge shall not be issued until the officer issuing the same shall have received, examined, approved and placed on file in his office satisfactory proof that such male child is of the age of ten years or upwards, and shall also have received, examined and placed on file the written statement of the principal or chief executive officer of the school which the child is attending, stating that such child is an attendant at such school, that he is of the normal development of a child of his age and physically fit for such employment, and that said principal or chief executive officer approves the granting of a permit and badge to such child. No such permit or badge shall be valid for any purpose except during the period in which such proof and written statement shall remain on file, nor shall such permit or badge be authority beyond the period fixed therein for its duration. After having received, examined and placed on file such papers the officer shall issue to the child a permit and badge. Principals or chief executive officers of schools in which children under fourteen years are pupils shall keep complete lists of all children in their schools to whom a permit and badge as herein provided have been granted.

§ 222. Contents of permit and badge.—Such permit shall state the date and place of birth of the child, the name and address of its parent, guardian, custodian or next friend, as the case may be, and describe the color of hair and eyes, the height and weight and any distinguishing facial mark of such child, and shall further state that the papers required by the preceding section have been duly examined and filed; and that the child named in such permit has appeared before the officer issuing the permit. The badge furnished by the officer issuing the permit shall bear on its face a number corresponding to the number of the permit, and the name of the child. Every such permit, and every such badge on its reverse side, shall be signed in the

presence of the officer issuing the same by the child in whose name it is issued.

§ 223. **Regulations concerning badge and permit.**—The badge provided for herein shall be worn conspicuously at all times by such child while so working; and all such permits and badges shall expire annually on the first day of January. The color of the badge shall be changed each year. No child to whom such permit and badge are issued shall transfer the same to any other person nor be engaged in any city of the first or second class as a newsboy, or shall sell or expose or offer for sale newspapers, magazines or periodicals in any street or public place without having conspicuously upon his person such badge, and he shall exhibit the same upon demand at any time to any police, or attendance officer.

§ 224. **Limit of hours.**—No child to whom a permit and badge are issued as provided for in the preceding sections shall sell or expose or offer for sale any newspapers, magazines or periodicals after ten o'clock in the evening, or before six o'clock in the morning.

§ 225. **Enforcement of article.**—In cities of the first or second class, police officers, and the regular attendance officers appointed by the board of education who are hereby vested with the powers of peace officers for the purpose, shall enforce the provisions of this article.

§ 226. **Violation of this article, how punished.**—Any child who shall work in any city of the first or second class in any street or public place as a newsboy or who shall sell or expose or offer for sale newspapers, magazines or periodicals in violation of the provisions of this article, shall be arrested and brought before a court or magistrate having jurisdiction to commit a child to an incorporated charitable reformatory or other institution and be dealt with according to law; and if any such child is committed to an institution, it shall when practicable, be committed to an institution governed by persons of the same religious faith as the parents of such child. The permit and badge of any child who violates the provisions of this article may be revoked by the officer issuing the same, upon the recommendation of the principal or chief executive officer of the school which such child is attending, or upon the complaint of any police officer or attendance officer, and such child shall surrender the permit and badge so revoked upon the demand of any attendance officer or police officer charged with the duty of enforcing the provisions of this article. The refusal of any child to surrender such permit and badge, upon such demand, or the sale or offering for sale of newspapers, magazines or periodicals in any street or public place by any child after notice of the revocation of such permit and badge shall be deemed a violation of this article and shall subject the child to the penalties provided for in this section.

#### ARTICLE 16.

##### Laws Repealed; When to Take Effect.

Section 240. Laws repealed.

241. When to take effect.

§ 240. **Laws repealed.**—Of the laws enumerated in the schedule hereto annexed, that portion specified in the last column is hereby repealed.

§ 241. **When to take effect.**—This chapter shall take effect immediately.\*

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\* February 17, 1909.

SCHEDULE OF LAWS REPEALED.

Laws of	Chapter	Section
1833.....	87.....	All
1853.....	641.....	All
1867.....	856.....	All
1867.....	969.....	All
1868.....	717.....	2, part suspending operation of L. 1867, Ch. 969, § 10, last two sentences
1869.....	822.....	2, part amending L. 1867, Ch. 969
1870.....	385.....	All
1871.....	934.....	3
1874.....	614.....	All
1875.....	472.....	All
1881.....	298.....	All
1883.....	356.....	All
1885.....	314.....	All
1885.....	376.....	All
1886.....	151.....	All
1886.....	205.....	All
1886.....	409.....	All, except § 21, as added by L. 1887, Ch. 462, § 4
1886.....	410.....	All
1887.....	63.....	All
1887.....	323.....	All
1887.....	462.....	All
1887.....	529.....	All
1888.....	437.....	All
1889.....	380.....	All
1889.....	381.....	All
1889.....	385.....	All
1889.....	560.....	All
1890.....	218.....	All
1890.....	388.....	All
1890.....	394.....	All
1890.....	398.....	All
1891.....	214.....	All
1892.....	517.....	All
1892.....	667.....	All
1892.....	673.....	All
1892.....	711.....	All
1893.....	173.....	All
1893.....	219.....	All
1893.....	339.....	All
1893.....	691.....	All
1893.....	715.....	All
1893.....	717.....	All
1894.....	277.....	All
1894.....	373.....	All

Laws of	Chapter	Section
1894.....	622.....	All
1894.....	698.....	All
1894.....	699.....	All
1895.....	324.....	All
1895.....	413.....	All
1895.....	518.....	All
1895.....	670.....	All
1895.....	765.....	All
1895.....	791.....	All
1895.....	899.....	All
1896.....	271.....	All
1896.....	384.....	All
1896.....	672.....	All
1896.....	789.....	All
1896.....	931.....	1-4, 6, 7
1896.....	936.....	All
1896.....	982.....	All
1896.....	991.....	All
1897.....	148.....	All
1897.....	415.....	All
1899.....	191.....	All
1899.....	192.....	All
1899.....	375.....	All
1899.....	558.....	All
1899.....	567.....	All
1900.....	298.....	All
1900.....	533.....	All
1901.....	9.....	All
1901.....	306.....	All
1901.....	475.....	All
1901.....	477.....	All
1901.....	478.....	All
1902.....	88.....	All
1902.....	454.....	All
1902.....	600.....	All
1903.....	151.....	All
1903.....	184.....	All
1903.....	255.....	All
1903.....	561.....	All
1904.....	291.....	All
1904.....	523.....	All
1904.....	550.....	All
1905.....	493.....	All
1905.....	518.....	All
1905.....	519.....	All
1905.....	520.....	All
1906.....	129.....	All
1906.....	158.....	All

Laws of	Chapter	Section
1906.....	178.....	All
1906.....	216.....	All
1906.....	275.....	All
1906.....	316.....	All
1906.....	366.....	All
1906.....	375.....	All
1906.....	401.....	All
1906.....	490.....	All
1906.....	506.....	All
1907.....	83.....	All
1907.....	243.....	All
1907.....	286.....	All
1907.....	291.....	All
1907.....	399.....	All
1907.....	418.....	All
1907.....	485.....	All
1907.....	490.....	All
1907.....	505.....	All
1907.....	507.....	All
1907.....	588.....	All
1907.....	627.....	All
1908.....	89.....	All
1908.....	174.....	All
1908.....	426.....	All
1908.....	442.....	All
1908.....	443.....	All
1908.....	520.....	AV

## PENALTIES FOR VIOLATION OF THE LABOR LAW.

### THE PENAL LAW, CHAPTER 40 OF THE CONSOLIDATED LAWS.

§ 620. Unlawful dealing in convict made goods.—A person who:

1. Sells or exposes for sale convict made goods, wares or merchandise, without a license therefor, or having such license does not transmit to the secretary of state the statement required by article thirteen of the labor law; or,

2. Sells, offers for sale, or has in his possession for sale any such convict made goods, wares or merchandise without the brand, mark or label required by article thirteen of the labor law; or,

3. Removes or defaces or in any way alters such brand, mark or label, Is guilty of a misdemeanor, and upon conviction therefor shall be punished by a fine of not more than one thousand or less than one hundred dollars, or by imprisonment for not less than ten days or by both such fine and imprisonment.

*Cf. notes with §§ 190 and 193 of the Labor Law, ante.*

### ARTICLE 120.

#### Labor.

Section 1270. Refusal to admit inspector to mines, tunnels, and quarries; failure to comply with requirements of inspector.

1271. Hours of labor to be required.

1272. Payment of wages.

1273. Failure to furnish seats for female employees.

1274. No fees to be charged for services rendered by free public employment bureaus.

1275. Violations of provisions of labor law.

1276. Negligently furnishing insecure scaffolding.

1277. Neglect to complete or plank floors of buildings constructed in cities.

1278. Fraudulent representation in labor organizations.

§ 1270. Refusal to admit inspector to mines, tunnels, and quarries; failure to comply with requirements of inspector.—A person:

1. Refusing to admit the commissioner of labor, or any person authorized by him, to a mine, tunnel or quarry, and to each and every part thereof, for the purpose of examination and inspection; or,

2. Neglecting or refusing to comply with the provisions of article nine of the labor law upon written notice of the commissioner of labor,

Is guilty of a misdemeanor, and upon conviction therefor shall be punished by a fine of not less than fifty dollars, or by imprisonment for not less than thirty days.

§ 1271. Hours of labor to be required.—Any person or corporation:

1. Who, contracting with the state or municipal corporation, shall require more than eight hours work for a day's labor; or,

2. Who shall require more than ten hours labor, including one-half hour for dinner, to be performed within twelve consecutive hours, by the employees of a street surface and elevated railway owned or operated by corporations whose main line of travel or routes lie principally within the corporate limits of cities of more than one hundred thousand inhabitants; or,

3. Who shall require the employees of a corporation owning or operating a brickyard to work contrary to the requirements of section five of the labor law; or,

4. Who shall require or permit any employee engaged in or connected with the movement of any train of a corporation operating a line of railroad of thirty miles in length, or over, in whole or in part within this state, to remain on duty more than sixteen consecutive hours; or to require or permit any such employee who has been on duty sixteen consecutive hours to go on duty without having had at least ten hours off duty; or to require or permit any such employee who has been on duty sixteen hours in the aggregate in any twenty-four hour period, to continue on duty or to go on duty without having had at least eight hours off duty within such twenty-four hour period; except when by casualty occurring after such employee has started on his trip, or by unknown casualty occurring before he started on his trip, and except when by accident or unexpected delay of trains scheduled to make connection with the train on which such employee is serving, he is prevented from reaching his terminal;

Is guilty of a misdemeanor, and on conviction therefor shall be punished by a fine of not less than five hundred nor more than one thousand dollars for each offense.

If any contractor with the state or a municipal corporation shall require more than eight hours for a day's labor, upon conviction therefor in addition to such fine, the contract shall be forfeited at the option of the municipal corporation.

See §§ 3-8 of the Labor Law, *ante*.

§ 1272. **Payment of wages.**—A corporation or joint stock association or person carrying on the business thereof, by lease or otherwise, who does not pay the wages of all its employees in accordance with the provisions of the labor law, is guilty of a misdemeanor, and upon conviction therefor, shall be fined not less than one hundred nor more than ten thousand dollars for each offense. An indictment of a person or corporation operating a steam surface railroad for an offense specified in this section may be found and tried in any county within the state in which such railroad ran at the time of such offense. [*As am'd by L. 1909, ch. 205.*]

See §§ 9 and 10 of the Labor Law, *ante*.

§ 1273. **Failure to furnish seats for female employees.**—Any person employing females in a factory or mercantile establishment who does not provide and maintain suitable seats for the use of such employees and permit the use thereof by such employees to such an extent as may be reasonable for the preservation of their health, is guilty of a misdemeanor.

See §§ 17 and 170 of Labor Law, *ante*.

§ 1274. **No fees to be charged for services rendered by free public employment bureaus.**—A person connected with or employed in a free public employment bureau, who shall charge or receive directly or indirectly, any fee or compensation from any person applying to such bureau for help or employment, is guilty of a misdemeanor.

§ 1275. **Violations of provisions of labor law.**—Any person who violates or does not comply with:

1. The provisions of article three of the labor law, relating to the department of labor;



2. The provisions of article four of the labor law, relating to the bureau of labor statistics;
3. The provisions of article five of the labor law, relating to the bureau of factory inspection;
4. The provisions of article six of the labor law, relating to factories;
5. The provisions of article seven of the labor law, relating to the manufacture of articles in tenements;
6. The provisions of article eight of the labor law, relating to bakeries and confectioneries;
7. The provisions of article eleven of the labor law, relating to mercantile establishments, and the employment of women and children therein;
8. And any person who knowingly makes a false statement in or in relation to any application made for an employment certificate as to any matter required by articles six and eleven of the labor law to appear in any affidavit, record, transcript or certificate therein provided for,

Is guilty of a misdemeanor and upon conviction shall be punished for a first offense by a fine of not less than twenty nor more than fifty dollars; for a second offense by a fine of not less than fifty nor more than two hundred dollars, or by imprisonment for not more than thirty days or by both such fine and imprisonment; for a third offense by a fine of not less than two hundred and fifty dollars, or by imprisonment for not more than sixty days, or by both such fine and imprisonment.

§ 1276. Negligently furnishing insecure scaffolding.—A person or corporation employing or directing another to do or perform any labor in the erection, repairing, altering or painting, any house, building or structure within this state, who knowingly or negligently furnishes or erects or causes to be furnished or erected for the performance of such labor, unsafe, unsuitable or improper scaffolding, hoists, stays, ladders or other mechanical contrivances; or who hinders or obstructs any officer detailed to inspect the same, destroys or defaces any notice posted thereon, or permits the use thereof after the same has been declared unsafe by such officer contrary to the provisions of article two of the labor law, is guilty of a misdemeanor.

See §§ 18 and 19 of the Labor Law, *ante*.

§ 1277. Neglect to complete or plank floors of buildings constructed in cities.—A person, constructing a building in a city, as owner or contractor, who violates the provisions of article two of the labor law, relating to the completing or laying of floors, or the planking of such floors or tiers of beams as the work of construction progresses, is guilty of a misdemeanor, and upon conviction therefor shall be punished by a fine for each offense of not less than twenty-five nor more than two hundred dollars.

See § 20 of the Labor Law, *ante*.

§ 1278. Fraudulent representation in labor organizations.—[See under TRADE UNIONS, *post*.]

## CHILD LABOR.

[The employment of children during the school sessions is regulated by Article 23 of the Education Law, printed below.

The employment of children in factories is regulated by Article 6 of the Labor Law, *ante*; in stores, hotels, offices, etc., by Article 11, *ante*, and in the selling of newspapers by Article 15, *ante*.

Article 44 of the Penal Law (§§ 480-493), entitled "Children," contains provisions relative to the employment of children in occupations dangerous to health or morals. Certain of these sections are printed below. See further § 1892 of the Penal Law prohibiting the employment of minors under 18 as telegraph operators on railroads; and the Liquor Tax Law, § 30-f, forbidding girls to sell or serve liquors.

As to registration of births, from which evidence of a child's attainment of the legal age of employment is derived, see Public Health Law, § 22.]

### EDUCATIONAL RESTRICTIONS.

COMPULSORY EDUCATION LAW: ARTICLE 23 OF CHAPTER 16 OF THE CONSOLIDATED LAWS.

[Enacted by ch. 140 of Laws of 1910, amending ch. 16 of the Consolidated Laws of 1909.]

§ 620. **Instruction required.** The instruction required under this article shall be:

1. At a public school in which at least the six common school branches of reading, spelling, writing, arithmetic, English language and geography are taught in English.

2. Elsewhere than a public school upon instruction in the same subjects taught in English by a competent teacher.

§ 621. **Required attendance upon instruction.**—1. Every child within the compulsory school ages, in proper physical and mental condition to attend school, residing in a city or school district having a population of 5000 or more and employing a superintendent of schools, shall regularly attend upon instruction as follows:

- (a) Each child between 7 and 14 years of age shall attend the entire time during which the school attended is in session, which period shall not be less than 160 days of actual school.

- (b) Each child between 14 and 16 years of age not regularly and lawfully engaged in any useful employment or service, and to whom an employment certificate has not been duly issued under the provisions of the labor law, shall so attend the entire time during which the school attended is in session.

2. Every such child, residing elsewhere than in a city or school district having a population of 5000 or more and employing a superintendent of schools, shall attend upon instruction as many days annually between the first day of October and the following June as the public school of the district in which such child resides, shall be in session during such period, as follows:

- (a) Each child between 8 and 14 years of age.

- (b) Each child between 14 and 16 years of age not regularly and lawfully engaged in any useful employment or service.

§ 622. **When a boy is required to attend evening school.** Every boy between 14 and 16 years of age, in a city of the first class or a city of the

second class in possession of an employment certificate duly issued under the provisions of the labor law, who has not completed such course of study as is required for graduation from the elementary public schools of such city, and who does not hold either a certificate of graduation from the public elementary school or the preacademic certificate issued by the Regents or the certificate of the completion of an elementary course issued by the Education Department, shall attend the public evening schools of such city, or other evening schools offering an equivalent course of instruction, for not less than six hours each week, for a period of not less than 16 weeks or upon a trade school a period of eight hours per week for 16 weeks in each school or calendar year.

**§ 623. Instruction elsewhere than at a public school.**—If any such child shall so attend upon instruction elsewhere than at a public school, such instruction shall be at least substantially equivalent to the instruction given children of like age at the public school of the city or district in which such child resides; and such attendance shall be for at least as many hours each day thereof as are required of children of like age at public schools; and no greater total amount of holidays or vacations shall be deducted from such attendance during the period such attendance is required than is allowed in such public school to children of like age. Occasional absences from such attendance, not amounting to irregular attendance in the fair meaning of the term, shall be allowed upon such excuses only as would be allowed in like cases by the general rules and practice of such public school.

**§ 624. Duties of persons in parental relation to children.**—Every person in parental relation to a child within the compulsory school ages and in proper physical and mental condition to attend school, shall cause such child to attend upon instruction, as follows:

1. In cities and school districts having a population of 5000 or above, every child between 7 and 16 years of age as required by section 621 of this act unless an employment certificate shall have been duly issued to such child under the provisions of the labor law and he is regularly employed thereunder.

2. Elsewhere than in a city or school district having a population of 5000 or above, every child between 8 and 16 years of age, unless such child shall have received an employment certificate duly issued under the provisions of the labor law and is regularly employed thereunder in a factory or mercantile establishment, business or telegraph office, restaurant, hotel, apartment house or in the distribution or transmission of merchandise or messages, or unless such child shall have received the school record certificate issued under section 630 of this act and is regularly employed elsewhere than in the factory or mercantile establishment, business or telegraph office, restaurant, hotel, apartment house or in the distribution or transmission of merchandise or messages.

**§ 625. Penalty for failure to perform parental duty.**—A violation of section 624 shall be a misdemeanor, punishable for the first offense by a fine not exceeding \$5, or five days' imprisonment, and for each subsequent offense by a fine not exceeding \$50, or by imprisonment not exceeding 30 days, or by both such fine and imprisonment. Courts of special session and police

magistrates shall, subject to removal as provided in sections 57 and 58 of the Code of Criminal Procedure, have exclusive jurisdiction in the first instance to hear, try and determine charges of violations of this section within their respective jurisdictions.

**§ 626. Unlawful employment of children and penalty therefor.**—It shall be unlawful for any person, firm or corporation:

1. To \*employ any child under fourteen years of age, in any business or service whatever, for any part of the term during which the public schools of the district or city in which the child resides are in session.

2. To employ, elsewhere than in a city of the first class or a city of the second class, in a factory or mercantile establishment, business or telegraph office, restaurant, hotel, apartment house or in the distribution or transmission of merchandise or messages, any child between 14 and 16 years of age who does not at the time of such employment present an employment certificate duly issued under the provisions of the labor law, or to employ any such child in any other capacity who does not at the time of such employment present a school record certificate as provided in section 630 of this chapter.

3. To employ any child between 14 and 16 years of age in a city of the first class or a city of the second class who does not, at the time of such employment, present an employment certificate, duly issued under the provisions of the labor law.

**§ 627. Employer must display record certificate and evening certificate.**—The employer of any child between 14 and 16 years of age in a city of the first class or a city of the second class shall keep and shall display in the place where such child is employed, the employment certificate and also his evening school certificate issued by the school authorities of said city or by an authorized representative of such school authorities, certifying that the said boy is regularly in attendance at an evening school of said city as provided in section 631 of this chapter.

**§ 628. Punishment for unlawful employment of children.**—Any person, firm, or corporation, or any officer, manager, superintendent or employee acting therefor, who shall employ any child contrary to the provisions of section 626 hereof, shall be guilty of a misdemeanor; and the punishment therefor shall be for the first offense a fine of not less than \$20 nor more than \$50; for a second, and each subsequent offense, a fine of not less than \$50 nor more than \$200.

Constitutionality affirmed in *City of New York v. Chelsea Jute Mills*, 43 Misc. 266.

**§ 629. Teachers must keep record of attendance.**—An accurate record of the attendance of all children between 7 and 16 years of age shall be kept by the teacher of every school, showing each day by the year, month, day of the month and day of the week, such attendance, and the number of hours in each day thereof; and each teacher upon whose instruction any such child shall attend elsewhere than at school, shall keep a like record of such attendance. Such record shall, at all times, be open to the attendance officers or other person duly authorized by the school authorities of the city or

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\* So in original.

district, who may inspect or copy the same; and every such teacher shall fully answer all inquiries lawfully made by such authorities, inspectors, or other persons, and a wilful neglect or refusal so to answer any such inquiry shall be a misdemeanor.

§ 630. **School record certificate.**—1. A school record certificate shall contain a statement certifying that a child has regularly attended the public schools, or schools equivalent thereto, or parochial schools, for not less than 130 days during the 12 months next preceding his 14th birthday or during the 12 months next preceding his application for such school record, and that he is able to read and write simple sentences in the English language, and has received during such period instruction in reading, writing, spelling, English grammar and geography, and is familiar with the fundamental operations of arithmetic up to and including fractions. Such record shall also give the date of birth and residence of the child as shown on the school records, and the name of the child's parents, guardian or custodian.

2. A teacher or superintendent to whom application shall be made for a school record certificate required under the provisions of the labor law shall issue a school record certificate to any child who, after due investigation and examination, may be found to be entitled to the same as follows:

a. In a city of the first class by the principal or chief executive of a school.

b. In all other cities and in school districts having a population of 5000 or more and employing a superintendent of schools, by the superintendent of schools only.

c. In all other school districts by the principal teacher of the school.

d. In each city or school district such certificate shall be furnished on demand to a child entitled thereto or to the Board or Commissioner of Health.

§ 631. **Evening school certificate.**—The school authorities of a city of the first class or a city of the second class, or officers designated by them, are hereby required to issue to a boy lawfully in attendance at an evening school, an evening school certificate at least once in each month during the months said evening school is in session and at the close of the term of said evening school, provided that said boy has been in attendance upon said evening school for not less than six hours each week for such number of weeks as will, when taken in connection with the number of weeks such evening school shall be in session during the remainder of the current or calendar year, make up a total attendance on the part of said boy in said evening school of not less than six hours per week for a period of not less than 16 weeks or attendance upon a trade school for at least eight hours per week for not less than 16 weeks. Such certificate shall state fully the period of time which the boy to whom it is issued was in attendance upon such evening school or trade school.

§ 632. **Attendance officers.**—1. The school authorities of each city, union free school district, or common school district whose limits include in whole or in part an incorporated village, shall appoint and may remove at pleasure one or more attendance officers of such city or district, and shall fix their compensation and may prescribe their duties not inconsistent with this article and make rules and regulations for the performance thereof; and the

superintendent of schools shall supervise the enforcement of this article within such city or school district.

2. The town board of each town shall appoint, subject to the written approval of the school commissioner of the district, one or more attendance officers, whose jurisdiction shall extend over all school districts in said town, and which are not by this section otherwise provided for, and shall fix their compensation, which shall be a town charge; and such attendance officers, appointed by said board, shall be removable at the pleasure of the school commissioner in whose commissioner district such town is situated.

§ 633. **Arrest of truants.**—1. The attendance officer may arrest without a warrant any child between 7 and 16 years of age who is a truant from instruction upon which he is lawfully required to attend within the city or district of such attendance officer. He shall forthwith deliver the child so arrested to a teacher from whom such child is then a truant, or, in case of habitual and incorrigible truants, shall bring them before a police magistrate for commitment to a truant school as provided in section 635.

2. The attendance officer shall promptly report such arrest and the disposition which he makes of such child, to the school authorities of the said city or district where such child is lawfully required to attend upon instruction.

3. A truant officer in the performance of his duties may enter, during business hours, any factory, mercantile or other establishment within the city or school district in which he is appointed and shall be entitled to examine employment certificates or registry of children employed therein on demand.

§ 634. **Interference with attendance officer.**—Any person interfering with an attendance officer in the lawful discharge of his duties and any person owning or operating a factory, mercantile or other establishment who shall refuse on demand to exhibit to such attendance officer the registry of the children employed or the employment certificate of such children shall be guilty of a misdemeanor.

§ 635. **Truant schools.**—1. The school authorities of any city or school district may establish schools, or set apart separate rooms in public school buildings, for children between 7 and 16 years of age, who are habitual truants from instruction upon which they are lawfully required to attend, or who are insubordinate or disorderly during their attendance upon such instruction, or irregular in such attendance. Such school or room shall be known as a truant school; but no person convicted of crimes or misdemeanors, other than truancy, shall be committed thereto.

2. School authorities may provide for the confinement, maintenance and instruction of such truants in such schools; and they, or the superintendent of schools in any city or school district, may, after reasonable notice to such child and the persons in parental relation to such child, and an opportunity for them to be heard, and with the consent in writing of the persons in parental relation to such child, order such child to attend such school, or to be confined and maintained therein, under such rules and regulations as such

authorities may prescribe, for a period not exceeding two years; but in no case shall a child be so confined after he is 16 years of age.

3. Such authorities may order such a child to be confined and maintained during such period in any private school, orphans' home or similar institution controlled by persons of the same religious faith as the persons in parental relation to such child, and which is willing and able to receive, confine and maintain such child, upon such terms as to compensation as may be agreed upon between such authorities and such private school, orphans' home or similar institution.

4. If the person in parental relation to such child shall not consent to either of such orders said person shall be proceeded against in court under section 625 of this chapter by the school authorities or such officer as they may designate. In case the person in parental relation to such child establishes to the satisfaction of the court that such child is beyond his control such child shall be proceeded against as a disorderly person, and upon conviction thereof, if the child was lawfully required to attend a public school, the child shall be sentenced to be confined and maintained in such truant school for a period not exceeding two years; or if such child was lawfully required to attend upon instruction otherwise than at a public school, the child may be sentenced to be confined and maintained for a period not exceeding two years in such private school, orphans' home or other similar institutions, if there be one, controlled by persons of the same religious faith as the persons in parental relation to such child, which is willing and able to receive, confine and maintain such child for a reasonable compensation. Such confinement shall be conducted with a view to the improvement and to the restoration, as soon as practicable, of such child to the institution elsewhere, upon which he may be lawfully required to attend.

5. The authorities committing any such child, and in cities and districts having a superintendent of schools such superintendent shall have authority, in his discretion, to parole at any time any truant so committed by them.

6. Every child lawfully suspended from attendance upon instruction for more than one week, shall be required to attend such truant school during the period of such suspension.

7. The school authorities of any city or school district, not having a truant school, may contract with any other city or district having a truant school, for the confinement, maintenance and instruction therein of children whom such school authorities might require to attend a truant school, if there were one in their own city or district.

8. Industrial training shall be furnished in every such truant school.

9. The expense attending the commitment and cost of maintenance of any truant residing in any city, or district, employing a superintendent of schools shall be a charge against such city, or district, and in all other cases shall be a county charge.

§ 636. Enforcement of law and withholding the state moneys by Commissioner of Education.—1. The Commissioner of Education shall supervise the enforcement of this law and he may withhold one-half of all public school moneys from any city or district, which, in his judgment, wilfully omits and

refuses to enforce the provisions of this article, after due notice, so often and so long as such wilful omission and refusal shall, in his judgment, continue.

2. If the provisions of this article are complied with at any time within one year from the date on which said moneys were withheld, the moneys so withheld shall be paid over by said Commissioner of Education to such district or city, otherwise forfeited to the state.

**CERTAIN EMPLOYMENTS OF CHILDREN PROHIBITED.**

**PENAL LAW, CHAPTER 40 OF CONSOLIDATED LAWS.**

§ 483. Endangering life or health of child.—A person who:

1. Wilfully causes or permits the life or limb of any child actually or apparently under the age of sixteen years to be endangered, or its health to be injured, or its morals to become depraved; or,

2. Wilfully causes or permits such child to be placed in such a situation or to engage in such an occupation that its life or limb is endangered, or its health is likely to be injured, or its morals likely to be impaired,

Is guilty of a misdemeanor.

3. Any parent or guardian or other person having custody of a child under sixteen years of age, except in the city of New York who omits to exercise due diligence in the control of such child, to prevent such child from violating any of the provisions of this article and any such person or any other person responsible for or who by any act or omission causes, encourages or contributes to the violation by any such child of said provisions shall be guilty of a misdemeanor and punishable accordingly.

§ 485. Certain employment of children prohibited.—A person who employs or causes to be employed, or who exhibits, uses, or has in custody, or trains for the purpose of the exhibition, use or employment of, any child actually or apparently under the age of sixteen years; or who having the care, custody or control of such a child as parent, relative, guardian, employer or otherwise, sells, lets out, gives away, so trains, or in any way procures or consents to the employment, or to such training, or use, or exhibition of such child; or who neglects or refuses to restrain such child from such training, or from engaging or acting:

1. As a rope or wire walker, gymnast, wrestler, contortionist, rider or acrobat; or upon any bicycle or similar mechanical vehicle or contrivance; or,

2. In begging or receiving or soliciting alms in any manner or under any pretense, or in any mendicant occupation; or in gathering or picking rags, or collecting cigar stumps, bones or refuse from markets; or in peddling; or,

3. In singing; or dancing; or playing upon a musical instrument; or in a theatrical exhibition; or in any wandering occupation; or,

4. In any illegal, indecent or immoral exhibition or practice; or in the exhibition of any such child when insane, idiotic, or when presenting the appearance of any deformity or unnatural physical formation or development; or,

5. In any practice or exhibition or place dangerous or injurious to the life, limb, health or morals of the child,

Is guilty of a misdemeanor.



But this section does not apply to the employment of any child as a singer or musician in a church, school or academy; or in teaching or learning the science or practice of music; or as a musician in any concert or in a theatrical exhibition, with the written consent of the mayor of the city, or the president of the board of trustees of the village where such concert or exhibition takes place. Such consent shall not be given unless forty-eight hours previous notice of the application shall have been served in writing upon the society mentioned in section four hundred and ninety-one of this chapter, if there be one within the county, and a hearing had thereon if requested, and shall be revocable at the will of the authority giving it. It shall specify the name of the child, its age, the names and residence of its parents or guardians, the nature, time, duration and number of performances permitted, together with the place and character of the exhibition. But no such consent shall be deemed to authorize any violation of the first, second, fourth or fifth subdivisions of this section.

Not an unconstitutional infringement of the parents' rights or the rights of the child 8 N. Y. Cr. 383; *People v. Ewer*, 141 N. Y. 129.

§ 486. **Prohibited acts; destitute children.**—Any child actually or apparently under the age of sixteen years who is found:

1. Begging or receiving or soliciting alms, in any manner or under any pretense; or gathering or picking rags, or collecting cigar stumps, bones or refuse from markets; or,

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5. Coming within any of the descriptions of children mentioned in section four hundred and eighty-five,

Must be arrested and brought before a proper court or magistrate, who may commit the child to any incorporated charitable reformatory, or other institution, and when practicable, to such as is governed by persons of the same religious faith as the parents of the child, or may make any disposition of the child such as now is, or hereafter may be authorized in the cases of vagrants, truants, paupers or disorderly persons, but such commitment shall, so far as practicable, be made to such charitable or reformatory institutions.

§ 488. **Sending messenger boys to certain places.**—A corporation or person employing messenger boys who:

1. Knowingly places or permits to remain in a disorderly house, or in an unlicensed saloon, inn, tavern or other unlicensed place where malt or spirituous liquors or wines are sold, any instrument or device by which communication may be had between such disorderly house, saloon, inn, tavern or unlicensed place, and any office or place of business of such corporation or person; or,

2. Knowingly sends or permits any person to send any messenger boy to any disorderly house, unlicensed saloon, inn, tavern, or other unlicensed place, where malt or spirituous liquors or wines are sold, on any errand or business whatsoever except to deliver telegrams at the door of such house,

Is guilty of a misdemeanor, and incurs a penalty of fifty dollars to be recovered by the district attorney.

Compare § 161-a of the Labor Law, *ante*.

**TAKING APPRENTICE WITHOUT GUARDIAN'S CONSENT.**

§ 493. **Taking apprentice without consent of guardian.**—A person who takes an apprentice without having first obtained the consent of his legal guardian or unless a written agreement has been entered into as prescribed by law, is guilty of a misdemeanor.

For the law regulating apprenticeship, see under INDUSTRIAL EDUCATION, *post*.

**PAYMENT OF WAGES TO MINORS.**

THE DOMESTIC RELATIONS LAW, CHAPTER 14 OF THE CONSOLIDATED LAWS.

§ 72. **Payment of wages to minor; when valid.**—Where a minor is in the employment of a person other than his parent or guardian, payment to such minor of his wages is valid, unless such parent or guardian notify the employer in writing, within thirty days after the commencement of such service, that such wages are claimed by such parent or guardian, but whenever such notice is given at any time payments to the minor shall not be valid for services rendered thereafter.

## HOURS OF LABOR.\*

### DRUG CLERKS IN NEW YORK CITY.

#### PUBLIC HEALTH LAW, CHAPTER 45 OF THE CONSOLIDATED LAWS.

§ 236. **Working hours and sleeping apartments.**—No pharmacist, druggist, apprentice or employee in any pharmacy shall be required or permitted to work more than seventy hours per week. Nothing in this section prohibits working six hours overtime any week for the purpose of making a shorter succeeding week, provided, however, that the aggregate number of hours in any such two weeks shall not exceed one hundred and forty hours. The working hours per day shall be consecutive, allowing one hour for each meal. The hours shall be so arranged that an employee shall be entitled to and shall receive at least one full day off in two consecutive weeks. This paragraph applies to cities of the first class. No proprietor of any pharmacy or drug store shall require or permit any clerk to sleep in any room or apartment in or connected with such store that does not comply with the sanitary regulations of the local board of health. [*As am'd by L. 1910, ch. 422.*]

§ 240. **Revocation of license; misdemeanors; violations and penalties.**—

The wilful and repeated violation of any of the provisions of this article or the rules is sufficient cause for the revocation of a license or certificate. The license or certificate revoked shall on formal notice be delivered immediately to the board.

Misdemeanors. It is a misdemeanor for

9. Any proprietor of a pharmacy in a city of the first class to require more than seventy working hours a week in other arrangement than that permitted by section two hundred and thirty-six; and for any proprietor of a pharmacy or drug store to violate the provisions of the same section, in regard to sleeping apartments. [*As am'd by L. 1910, ch. 422.*]

### PUBLIC HOLIDAYS.

#### GENERAL CONSTRUCTION LAW, CHAPTER 22 OF THE CONSOLIDATED LAWS.

§ 24. **Holiday and half-holiday.**—The term holiday includes the following days in each year: The first day of January, known as New Year's day; the twelfth day of February, known as Lincoln's birthday; the twenty-second of February, known as Washington's birthday; the thirtieth day of May, known as Memorial day; the fourth day of July, known as Independence day; the first Monday of September, known as Labor day; the twelfth day of October, known as Columbus day; and the twenty-fifth day of December, known as Christmas day, and if either of such days is Sunday, the next day thereafter; each general election day and each day appointed by the president of the United States or by the governor of this state as a day of general

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\* Most of the legal restrictions upon the hours of labor are to be found in the Labor Law (articles 1, 6, 8 and 11, *ante*). See also under PUBLIC WORK, *post*.

thanksgiving, general fasting and prayer, or other general religious observances. The term half-holiday includes the period from noon to midnight of each Saturday which is not a holiday. [*As am'd by L. 1909, ch. 112.*]

#### SUNDAY LABOR.

ARTICLE 192 OF PENAL LAW, CHAPTER 40 OF THE CONSOLIDATED LAWS.

§ 2143. **Labor prohibited on Sunday.**—All labor on Sunday is prohibited, excepting the works of necessity and charity. In works of necessity or charity is included whatever is needful during the day for the good order, health or comfort of the community.

§ 2144. **Persons observing another day as a Sabbath.**—It is a sufficient defense to a prosecution for work or labor on the first day of the week that the defendant uniformly keeps another day of the week as holy time, and does not labor on that day, and that the labor complained of was done in such manner as not to interrupt or disturb other persons in observing the first day of the week as holy time.

§ 2146. **Trades, manufactures, and mechanical employments prohibited on Sunday.**—All trades, manufactures, agricultural or mechanical employments upon the first day of the week are prohibited, except that when the same are works of necessity they may be performed on that day in their usual and orderly manner, so as not to interfere with the repose and religious liberty of the community.

§ 2147. **Public traffic on Sunday.**—All manner of public selling or offering for sale of any property upon Sunday is prohibited, except that articles of food may be sold and supplied at any time before ten o'clock in the morning, and except also that meals may be sold to be eaten on the premises where sold or served elsewhere by caterers; and prepared tobacco, milk, ice and soda-water in places other than where spirituous or malt liquors or wines are kept or offered for sale, and fruit, flowers, confectionery, newspapers, drugs, medicines and surgical appliances may be sold in a quiet and orderly manner at any time of the day. The provisions of this section, however, shall not be construed to allow or permit the public sale or exposing for sale or delivery of uncooked flesh foods, or meats, fresh or salt, at any hour or time of the day.

The prohibition of the sale of uncooked meat at any hour on Sunday is constitutional: *People ex rel. Woodin v. Hagan*, 36 Misc. 349.

§ 2153. **Barbering on Sunday.**—Any person who carries on or engages in the business of shaving, hair cutting or other work of a barber on the first day of the week, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined not more than five dollars; and upon a second conviction for a like offense shall be fined not less than ten dollars and not more than twenty-five dollars, or be imprisoned in the county jail for a period of not less than ten days, nor more than twenty-five days, or be punishable by both such fine and such imprisonment at the discretion of the court or magistrate; provided, that in the village of Saratoga Springs, from the fifteenth day of June to the fifteenth day of September, inclusive, and in the city of New York throughout the year, barber shops or other places where a barber is engaged in shaving, hair cutting or other work of a barber, may be kept open, and the work of a barber may be performed therein until one o'clock of the afternoon of the first day of the week.

Held to be constitutional: *People v. Havnor*, 149 N. Y. 195 (1896).

## VACATIONS OF PUBLIC EMPLOYEES.

## ARTICLE 4 OF THE PUBLIC OFFICERS LAW, CHAPTER 47 OF THE CONSOLIDATED LAWS.

§ 71. Vacations for employees of the state and the several civil subdivisions thereof.—The executive officers of every public department, bureau, commission, or board of the state and of each county, city or other civil division thereof are authorized and empowered to grant to every employee under their supervision, who shall have been in such employ for at least one year, a vacation of not less than two weeks in each year, and for such further period of time as in the opinion and judgment of the executive officers, the duties, position, length of service and other circumstances may warrant, at such time as the executive officers may fix and during such vacation the said employee shall be allowed the same compensation as if actually employed. [Added by L. 1910, ch. 680.]

## TITLE 3 OF CHAPTER 23 OF THE GREATER NEW YORK CHARTER.

§ 1567. The executive heads of the various departments are authorized and empowered to grant to every employee of the city of New York, or of any department or bureau thereof, and of the department of education, a vacation of not less than two weeks in each year and for such further period of time as the duties, length of service and other qualifications of an employee may warrant, at such time as the executive head of the department or any officer having supervision over said employee may fix, and for such time they shall be allowed the same compensation as if actually employed, except that no such vacation shall be granted to per diem employees for longer than two weeks and only during the month of June, July and August. [Added by L. 1910, ch. 679.]

The granting of vacations under this section is permissive, not mandatory: *People ex rel. Denery v. Drummond*, in Supreme Court in New York City, Aug., 1910.

## DUTIES AND LIABILITIES OF EMPLOYERS AND EMPLOYEES.

### LIABILITY OF RAILWAY COMPANIES.\*

#### RAILROAD LAW, CHAPTER 49 OF THE CONSOLIDATED LAWS.

§ 64. **Injuries to employees.**—In all actions against a railroad corporation, foreign or domestic, doing business in this state, or against a receiver thereof, for personal injury to, or death resulting from personal injury of any person, while in the employment of such corporation, or receiver, arising from the negligence of such corporation or receiver or of any of its or his officers or employees, every employee, or his legal representatives, shall have the same rights and remedies for an injury, or for death, suffered by him, from the act or omission of such corporation or receiver or of its or his officers or employees, as are now allowed by law, and, in addition to the liability now existing by law, it shall be held in such actions that persons engaged in the service of any railroad corporation, foreign or domestic, doing business in this state, or in the service of a receiver thereof, who are intrusted by such corporation or receiver, with the authority of superintendence, control or command of other persons in the employment of such corporation or receiver, or with the authority to direct or control any other employee in the performance of the duty of such employee, or who have, as a part of their duty, for the time being, physical control or direction of the movement of a signal, switch, locomotive engine, car, train or telegraph office, are vice-principals of such corporation or receiver, and are not fellow-servants of such injured or deceased employee. If an employee, engaged in the service of any such railroad corporation, or of a receiver thereof, shall receive any injury by reason of any defect in the condition of the ways, works, machinery, plant, tools or implements, or of any car, train, locomotive or attachment thereto belonging, owned or operated, or being run and operated by such corporation or receiver, when such defect could have been discovered by such corporation or receiver, by reasonable and proper care, tests or inspection, such corporation or receiver shall be deemed to have had knowledge of such defect before and at the time such injury is sustained; and when the fact of such defect shall be proved upon the trial of any action in the courts of this state, brought by such employee or his legal representatives, against any such railroad corporation or receiver, on account of such injuries so received, the same shall be prima facie evidence of negligence on the part of such corporation or receiver. This section shall not affect actions or causes of action existing on May twenty-ninth, nineteen hundred and six; and no contract, receipt, rule or regulation between an employee and a railroad corporation or receiver, shall exempt or limit the liability of such corporation or receiver from the provisions of this section.

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\* For the General Employers' Liability Law, see articles 14 and 14-a of the Labor Law, *ante*.

**DAMAGES FOR INJURIES CAUSING DEATH.****ARTICLE I OF THE CONSTITUTION.**

Section 18. The right of action now existing to recover damages for injuries resulting in death shall never be abrogated; and the amount recoverable shall not be subject to any statutory limitation.

**CODE OF CIVIL PROCEDURE.**

§ 1902. The executor or administrator of a decedent, who has left, him or her surviving, a husband, wife, or next of kin, may maintain an action to recover damages for a wrongful act, neglect, or default, by which the decedent's death was caused, against a natural person who, or a corporation which, would have been liable to an action in favor of the decedent, by reason thereof, if death had not ensued. Such an action must be commenced within two years after the decedent's death.

**CRIMINAL LIABILITY FOR NEGLIGENCE.**

PENAL LAW, CHAPTER 40 OF THE CONSOLIDATED LAWS, § 1052 (PART).

**Negligent use of machinery.**—A person who, by any act of negligence or misconduct in a business or employment in which he is engaged, or in the use or management of any machinery, animals, or property of any kind, intrusted to his care, or under his control, or by any unlawful, negligent or reckless act, not specified by or coming within the foregoing provisions of this article, or the provisions of some other statute, occasions the death of a human being, is guilty of manslaughter in the second degree.

**Persons in charge of steamboats.**—A person having charge of a steamboat used for the conveyance of passengers, or of a boiler or engine thereof, who, from ignorance, recklessness, or gross neglect, or for the purpose of excelling any other boat in speed, creates, or allows to be created, such an undue quantity of steam as to burst the boiler, or other apparatus in which it is generated or contained, or to break any apparatus or machinery connected therewith, whereby the death of a human being is occasioned, is guilty of manslaughter in the second degree.

**Persons in charge of steam engines.**—An engineer or other person, having charge of a steam boiler, steam engine, or other apparatus for generating or applying steam, employed in a boat or railway, or in a manufactory, or in any mechanical works, who wilfully, or from ignorance or gross neglect, creates or allows to be created, such an undue quantity of steam as to burst the boiler, engine, or apparatus, or to cause any other accident, whereby the death of a human being is produced, is guilty of manslaughter in the second degree.

§ 1893. **Mismanagement of steam boilers.**—An engineer or other person having charge of a steam boiler, steam engine, or other apparatus for generating or employing steam, employed in a railway, manufactory, or other mechanical works, who, wilfully or from ignorance or gross neglect, creates or allows to be created such an undue quantity of steam as to burst the boiler, engine or apparatus, or cause any other accident whereby human life is endangered, is guilty of a misdemeanor.

See also §§ 1891, 1892.

**EMPLOYEES NOT TO DISPOSE OF MATERIAL FURNISHED.**

**PENAL LAW, CHAPTER 40 OF THE CONSOLIDATED LAWS.**

§ 1310. Conversion of materials furnished to a person for purpose of being manufactured.—Any person who shall wilfully pawn, pledge, sell or convert to his or her own use any material furnished to him or her for the purpose of being manufactured, if the same be of the value of more than twenty-five dollars, shall, upon conviction thereof, be adjudged guilty of grand larceny, and imprisoned in a state prison for a term not exceeding five years, but if the same be of the value of twenty-five dollars or under, he or she shall, upon conviction, be adjudged guilty of petit larceny, and be punished by imprisonment in a county jail not exceeding six months, or by fine not exceeding one hundred dollars, or by both such fine and imprisonment.

Nothing in this section contained shall be deemed or held to discharge any mechanic's lien, or right of lien in favor of any employee as now recognized by law.

**CORRUPT INFLUENCING OF AGENTS, EMPLOYEES OR SERVANTS.**

**PENAL LAW, CHAPTER 40 OF THE CONSOLIDATED LAWS.**

§ 439. Corrupt influencing of agents, employees or servants.—Whoever gives, offers or promises to an agent, employee or servant, any gift or gratuity whatever, without the knowledge and consent of the principal, employer or master of such agent, employee or servant, with intent to influence his action in relation to his principal's, employer's or master's business; or an agent, employee or servant who without the knowledge and consent of his principal, employer or master, requests or accepts a gift or gratuity or a promise to make a gift or to do an act beneficial to himself, under an agreement or with an understanding that he shall act in any particular manner to his principal's, employer's or master's business; or an agent, employee or servant, who, being authorized to procure materials, supplies or other articles either by purchase or contract for his principal, employer or master, or to employ service or labor for his principal, employer or master, receives directly or indirectly, for himself or for another, a commission, discount or bonus from the person who makes such sale or contract, or furnishes such materials, supplies or other articles, or from a person who renders such service or labor; and any person who gives or offers such an agent, employee or servant such commission, discount or bonus shall be guilty of a misdemeanor and shall be punished by a fine of not less than ten dollars nor more than five hundred dollars, or by such fine and by imprisonment for not more than one year.

Cf. "Bribery of labor representatives," under TRADE UNIONS, *post*.



## **POLITICAL AND LEGAL RIGHTS AND PRIVILEGES OF WORKINGMEN.**

### **ALLOWING TIME FOR EMPLOYEES TO VOTE WITHOUT LOSS OF PAY.**

#### **ELECTION LAW, CHAPTER 17 OF THE CONSOLIDATED LAWS.**

§ 365. **Time allowed employees to vote.**—Any person entitled to vote at a general election held within this state, shall on the day of such election be entitled to absent himself from any service or employment in which he is then engaged or employed, for a period of two hours, while the polls of such election are open. If such voter shall notify his employer before the day of such election of such intended absence, and if thereupon two successive hours for such absence shall be designated by the employer, and such absence shall be during such designated hours, or if the employer upon the day of such notice makes no designation, and such absence shall be during any two consecutive hours while such polls are open, no deduction shall be made from the usual salary or wages of such voter, and no other penalty shall be imposed upon him by his employer by reason of such absence. This section shall be deemed to include all employees of municipalities.

#### **PENAL LAW, CHAPTER 40 OF THE CONSOLIDATED LAWS.**

§ 759. **Refusal to permit employees to attend election.**—A person or corporation who refuses to an employee entitled to vote at an election or town meeting, the privilege of attending thereat, as provided by the election law, or subjects such employee to a penalty or reduction of wages because of the exercise of such privilege, is guilty of a misdemeanor.

### **TO PREVENT EMPLOYERS FROM COERCING EMPLOYEES IN THEIR EXERCISE OF THE SUFFRAGE.**

#### **PENAL LAW, CHAPTER 40 OF THE CONSOLIDATED LAWS.**

§ 772. **Duress and intimidation of voters.**—Any person or corporation who directly or indirectly:

1. Uses or threatens to use any force, violence or restraint, or inflicts or threatens to inflict any injury, damage, harm or loss, or in any other manner practices intimidation upon or against any person in order to induce or compel such person to vote or refrain from voting at any election or to vote or refrain from voting for or against any particular person or for or against any proposition submitted to voters at such election, or to place or cause to be placed or refrain from placing or causing to be placed his name upon a registry of voters, or on account of such person having voted or refrained from voting at such election, or having voted or refrained from voting for or against any particular person or persons, or for or against any proposition submitted to voters at such election, or having registered or refrained from registering as a voter; or,

2. By abduction, duress or any forcible or fraudulent device or contrivance whatever impedes, prevents or otherwise interferes with the free exercise of the elective franchise by any voter, or compels, induces or prevails upon any voter to give or refrain from giving his vote for or against any particular person at any election; or,

3. Being an employer pays his employees the salary or wages due in "pay envelopes," upon which there is written or printed any political motto, device or argument containing threats, express or implied, intended or calculated to influence the political opinions or actions of such employees, or within ninety days of a general election puts or otherwise exhibits in the establishment or place where his employees are engaged in labor, any handbill or placard containing any threat, notice or information, that if any particular ticket or candidate is elected or defeated, work in his place or establishment will cease, in whole or in part, his establishment be closed up, or the wages of his employees reduced, or other threats, express or implied, intended or calculated to influence the political opinions or actions of his employees,

Is guilty of a misdemeanor, and if a corporation shall in addition forfeit its charter.

**EXEMPTION OF MECHANICS' TOOLS FROM ATTACHMENT.**

CODE OF CIVIL PROCEDURE (CHAPTER 13, TITLE 2, ARTICLE I).

§ 1390. The following personal property, when owned by a householder is exempt from levy and sale by virtue of an execution, and each movable article thereof continues to be so exempt, while the family, or any of them, are removing from one residence to another:

\* \* \* \* \*

6. The tools and implements of a mechanic, necessary to the carrying on of his trade, not exceeding in value twenty-five dollars.

**GARNISHEE OF WAGES.**

CODE OF CIVIL PROCEDURE (CHAPTER 13, TITLE 2, ARTICLE I).

§ 1391. In addition to the exemptions, allowed by the last section, necessary household furniture, working tools and team, professional instruments, furniture and library, not exceeding in value two hundred and fifty dollars, together with the necessary food for the team, for ninety days, are exempt from levy and sale by virtue of an execution, when owned by a person, being a householder, or having a family for which he provides, except where the execution is issued upon a judgment, recovered wholly upon one or more demands, either for work performed in the family as a domestic or for the purchase money, of one or more articles, exempt as prescribed in this or the last section. Where a judgment has been recovered and where an execution issued upon said judgment has been returned wholly or partly unsatisfied, and where any wages, debts, earnings, salary, income from trust funds or profits are due and owing to the judgment debtor or shall thereafter become due and owing to him, to the amount of twelve dollars or more per week, and where no execution issued as hereafter provided for in this section is unsatisfied and outstanding against said judgment debtor, the judgment creditor may apply to the court in which said judgment was recovered or the court having jurisdiction of the same without notice to the judgment debtor and upon satisfactory proof of such facts by affidavits or otherwise, the court, if a court not of record, a judge or justice thereof, must issue or if a court of record, a judge or justice, must grant an order directing that an execution ~~is-ue~~ against the wages, debt, earnings, salary, income from trust funds or profits of said judgment debtor, and on presentation of such execution by the

officer to whom delivered for collection to the person or persons from whom such wages, debts, earnings, salary, income from trust funds or profits are due and owing, or may thereafter become due and owing to the judgment debtor, said execution shall become a lien and a continuing levy upon the wages, earnings, debts, salary, income from trust funds or profits due or to become due to said judgment debtor to the amount specified therein which shall not exceed ten per centum thereof, and said levy shall be a continuing levy until said execution and the expenses thereof are fully satisfied and paid or until modified as hereinafter provided. It shall be the duty of any person or corporation, municipal or otherwise, to whom said execution shall be presented, and who shall at such time be indebted to the judgment debtor named in such execution, or who shall become indebted to such judgment debtor in the future, and while said execution shall remain a lien upon said indebtedness to pay over to the officer presenting the same, such amount of such indebtedness as such execution shall prescribe until said execution shall be wholly satisfied and such payment shall be a bar to any action therefor by any such judgment debtor. If such person or corporation, municipal or otherwise, to whom said execution shall be presented shall fail, or refuse to pay over to said officer presenting said execution, the percentage of said indebtedness, he shall be liable to an action therefor by the judgment creditor named in such execution, and the amount so recovered by such judgment creditor shall be applied towards the payment of said execution. Either party may apply at any time to the court from which such execution shall issue, or to any judge or justice issuing the same, or to the county judge of the county, and in any county where there is no county judge, to any justice of the city court upon such notice to the other party as such court, judge, or justice shall direct for a modification of said execution, and upon such hearing the said court, judge or justice may make such modification of said execution as shall be deemed just, and such execution as so modified shall continue in full force and effect until fully paid and satisfied, or until further modified as herein provided.

The above section exempts from attachment wages of less than \$12 per week. Section 1879 of the Code of Civil Procedure also exempts from execution on judgment creditor's action "the earnings of the judgment debtor for his personal services, rendered within sixty days next before the commencement of the action, where it is made to appear, by his oath, or otherwise that those earnings are necessary for the use of a family, wholly or partly supported by his labor."

This section applies to state employees: See section 2-a of the State Finance Law (which provides also for semi-monthly pay for such employees and which was added in 1910) given under PUBLIC WORK AND PUBLIC CONTRACTS, *post*. Prior to the addition of this section to the Finance Law, the garnishee law had been held not to apply to state employees. *Osterhout v. Stade*, 133 App. Div. 83.

#### **TAKING SECURITY FOR USURIOUS LOANS.**

##### **PENAL LAW, CHAPTER 40 OF THE CONSOLIDATED LAWS.**

§ 2400. Taking security upon certain property for usurious loans.—A person who takes security, upon any household furniture, sewing machines, plate or silverware in actual use, tools or implements of trade, wearing apparel or jewelry, for a loan or forbearance of money, or for the use or sale of his personal credit, conditioned upon the payment of a greater rate than six per centum per annum or, who as security for such loan, use or sale of

personal credit as aforesaid, makes a pretended purchase of such property from any person, upon the like condition, and permits the pledger to retain the possession thereof is guilty of a misdemeanor.

#### ASSIGNMENT OF WAGES.

##### PERSONAL PROPERTY LAW, CHAPTER 41 OF THE CONSOLIDATED LAWS.

§ 42. **Lenders of money on salaries to file copies of agreement.**—1. Any person or persons, firm, corporation or company, who shall after March eighteenth, nineteen hundred and four, make to any employee an advance of money, or loan, on account of salary or wages due or to be earned in the future by such individual upon an assignment or note covering such loans or advances, shall not acquire any right to collect or attach the same while in the possession or control of the employer, unless within a period of three days after the execution of such assignment or notes and the making of such loan or loans, the party making such loan and taking such assignment shall have filed with the employer or employers of the individual so assigning his present or prospective salary or wages, a duly authenticated copy of such agreement or assignment or notes under which the claim is made.

2. No action shall be maintained in any of the courts of this state, brought by the holder of any such contract, assignment or notes, given by an employee for moneys loaned on account of salary or wages, in which it is sought to charge in any manner the employer or employers, unless it shall appear to the satisfaction of the court that a copy of such agreement, assignment or notes, together with a notice of lien, was duly filed with the employer or employers of the person making such agreement, assignment or notes, by the person or persons, corporation or company making said loan within three days after the said loan was made and the said agreement, assignment or notes were given.

See also § 13 of the Labor Law, *ante*.

#### ORDINARY EXEMPTIONS NOT VALID AGAINST WAGE DEBTS.

##### LAWS OF 1902, CHAPTER 580.

AN ACT in relation to the municipal court of the city of New York, its officers and marshals.

§ 274. **Judgment in favor of wage earners.**—In an action, brought in the municipal court, by a journeyman, laborer, or other employee whose employment answered to the general description of wage earner, for services rendered or wages earned in such capacity, if the plaintiff recovers a judgment for a sum not exceeding fifty dollars, exclusive of costs, and the action shall have been brought within two months after the cause of action accrued, no property of the defendant is exempt from levy and sale by virtue of an execution against property, issued thereupon; and, if such an execution is returned wholly or partly unsatisfied, the clerk must, upon the application of the plaintiff, issue an execution against the person of the defendant for the sum remaining uncollected, if the indorsement required by this act to the effect that defendant was liable to arrest was complied with. A defendant arrested by virtue of an execution so issued against his person, must be actually confined in the jail, and is not entitled to the liberties thereof; but he must

be discharged after having been so confined for fifteen days. After his discharge another execution against his person cannot be issued upon the judgment, but the judgment creditor may enforce the judgment against property as if the execution, from which the judgment debtor is discharged, has been returned, without his being taken. [*As am'd by L. 1907, ch. 425.*]

#### MAKING EMPLOYEES PREFERRED CREDITORS.

DEBTOR AND CREDITOR LAW, CHAPTER 12 OF THE CONSOLIDATED LAWS.

§ 27. **Wages preferred claims.**—In all distribution of assets under all assignments made in pursuance of this article, the wages or salaries actually owing to the employees of the assignor or assignors at the time of the execution of the assignment for services rendered within one year prior to the execution of the assignment, shall be preferred before any other debt; and should the assets of the assignor or assignors not be sufficient to pay in full all the claims preferred, pursuant to this section, they shall be applied to the payment of the same pro rata to the amount of each such claim.

*Uf.* § 9 of the Labor Law, "Payment of wages by receivers," *ante*; and the Lien Law, ch. 38 of the Consolidated Laws.

The statute is constitutional: 104 N. Y. 606.

#### LIABILITY OF STOCKHOLDERS FOR WAGE DEBTS.

STOCK CORPORATION LAW, CHAPTER 59 OF THE CONSOLIDATED LAWS.

§ 56. **Liabilities of stockholders.**—Every holder of capital stock not fully paid, in any stock corporation, shall be personally liable to its creditors, to an amount equal to the amount unpaid on the stock held by him for debts of the corporation contracted while such stock was held by him. As to existing corporations the liability imposed by this section shall be in lieu of the liability imposed upon stockholders of any existing corporation, under any general or special law, excepting laws relating to moneyed corporations, and corporations and associations for banking purposes, on account of any indebtedness hereafter contracted or any stock hereafter issued; but nothing in this section contained shall create or increase any liability of stockholders of any existing corporation under any general or special law.

§ 57. **Liabilities of stockholders to laborers, servants or employees.**—The stockholders of every stock corporation shall jointly and severally be personally liable for all debts due and owing to any of its laborers, servants or employees other than contractors, for services performed by them for such corporation. Before such laborer, servant or employee shall charge such stockholder for such services, he shall give him notice in writing, within thirty days after the termination of such services, that he intends to hold him liable, and shall commence an action therefor within thirty days after the return of an execution unsatisfied against the corporation upon a judgment recovered against it for services.

§ 58. **Non-liability in certain cases.**—No person holding stock in any corporation as collateral security, or as executor, administrator, guardian or trustee, unless he shall have voluntarily invested the trust funds in such stock, shall be personally subject to liability as a stockholder; but the person pledging such stock shall be considered the holder thereof and shall be liable as stockholder, and the estates and funds in the hands of such executor,

administrator, guardian or trustee shall be liable in the like manner and to the same extent as the testator or intestate, or the ward or person interested in such trust fund would have been, if he had been living and competent to act and held the same stock in his own name, unless it appears that such executor, administrator, guardian or trustee voluntarily invested the trust funds in such stocks, in which case he shall be personally liable as a stockholder.

**LIABILITY OF RAILROAD CORPORATIONS TO EMPLOYEES OF CONTRACTORS FOR WAGE DEBTS.**

RAILROAD LAW, CHAPTER 49 OF THE CONSOLIDATED LAWS.

§ 50. **Liability of corporation to employees of contractor.**—An action may be maintained against any railroad corporation by any laborer for the amount due him from any contractor for the construction of any part of its road, for ninety or any less number of days' labor performed by him in constructing such road, if within twenty days thereafter a written notice shall have been served upon the corporation, and the action shall have been commenced after the expiration of ten days and within six months after the service of such notice, which shall contain a statement of the month and particular days upon which the labor was performed and for which it was unpaid, the price per day, the amount due, the name of the contractor from whom due, and the section upon which performed, and shall be signed by the laborer or his attorney and verified by him to the effect that of his own knowledge the statements contained in it are true. The notice shall be served by delivering the same to an engineer, agent or superintendent having charge of the section of the road, upon which the labor was performed, personally, or by leaving it at his office or usual place of business with some person of suitable age or discretion; and if the corporation has no such agent, engineer or superintendent, or in case he can not be found and has no place of business open, service may in like manner be made on any officer or director of the corporation.

See further Lien Law, § 6, "Liens for labor on railroad"; also § 145 of the Canal Law providing security for wages of laborers on canals, *post*.

Laborers employed by sub-contractors are protected by this act (42 Hun 53).

**NO COURT FEES REQUIRED IN SUITS FOR WAGES.**

LAWS OF 1902, CHAPTER 580.

AN ACT in relation to the municipal court of the city of New York, its officers and marshals.

§ 44. **Where employee is party.**—When an action is brought by an employee against an employer for services performed by such employee, male or female, the clerk of the said municipal court in the district in which the action is brought, shall issue a free summons when the plaintiff's demand is less than fifty dollars and the plaintiff is a resident of the city of New York, and proof by the plaintiff's own affidavit that he has a good and meritorious cause of action and of the nature of such action and of said plaintiff's residence, and whether previous application therefor has been made, shall be duly presented to and filed with the clerk of the municipal court where such action shall be brought and he shall not demand or receive any fee whatsoever from

the plaintiff or his agents or attorneys in such action, unless the plaintiff shall demand a trial jury, in which case the plaintiff must pay to the clerk of the municipal court where such action shall be pending the sum of four dollars and fifty cents.

**§ 340. Costs in action by working woman.**—In an action brought to recover a sum of money for wages earned by a female employee, other than a domestic servant; or for material furnished by such an employee, in the course of her employment, or in or about the subject-matter thereof, or for both, the plaintiff, if entitled to costs, recovers the sum of ten dollars as costs, in addition to the costs allowed in this court, unless the amount of damages recovered is less than ten dollars; in which case, the plaintiff recovers the sum of five dollars as such additional costs. When the employee is the plaintiff in such an action, she is entitled upon a settlement thereof, to the full amount of costs, which she would have recovered, if judgment had been rendered in her favor, for the sum received by her upon the settlement.

**§ 348. Employee's action; no fees.**—When the action is brought by an employee against an employer for services performed by such employee, male or female, the clerks of this court shall not demand or receive any fees whatsoever from the plaintiff or his agents or attorneys in such action, if the plaintiff shall present proof by his own affidavit that his demand is less than fifty dollars, that he is a resident of the city of New York, that he has a good and meritorious cause of action against the defendant, and the nature thereof; that he has made either a written or a personal demand upon the defendant or his agent or representative, for payment thereof, and that payment was refused. Except that if the plaintiff shall demand a trial by jury, he must pay to the clerk the fees therefor prescribed in this act.

Sec. 274 of the Municipal Code provides for body executions against employers whose property is insufficient to satisfy judgments in wage suits. (See "Ordinary exemptions not valid against wage debts," *ante*.)

#### **MARRIED WOMAN'S RIGHT OF ACTION FOR WAGES, ETC.**

##### **DOMESTIC RELATIONS LAW, CHAPTER 14 OF THE CONSOLIDATED LAWS.**

**§ 60. Married woman's right of action for wages.**—A married woman shall have a cause of action in her own sole and separate right for all wages, salary, profits, compensation or other remuneration for which she may render work, labor or services, or which may be derived from any trade, business or occupation carried on by her, and her husband shall have no right of action therefor unless she or he with her knowledge and consent has otherwise expressly agreed with the person obligated to pay such wages, salary, profits, compensation or other remuneration. In any action or proceeding in which a married woman or her husband shall seek to recover wages, salary, profits, compensation or other remuneration for which such married woman has rendered work, labor or services or which was derived from any trade, business or occupation carried on by her or in which the loss of such wages, salary, profits, compensation or other remuneration shall be an item of damage claimed by a married woman or her husband, the presumption of law in all such cases shall be that such married woman is alone entitled thereto, unless the contrary expressly appears. This section shall not affect any right, cause of action or defense existing prior to May seventeenth, nineteen hundred and five.

## PUBLIC WORK AND CONTRACTS.

[Besides section 3 of the Labor Law, *ante*, there is on the statute books a large body of laws for the regulation of wages, hours, etc., of persons employed on public work. Of this legislation only a few examples can be reproduced in this compilation. In addition to the statutes respecting employees of state prisons and armories, the Insanity Law (ch. 27 of the Consolidated Laws) contains an extremely detailed schedule of wages and salaries (see Report of the Commissioner of Labor, 1904, p. 105). Of the numerous laws fixing the terms of employment of municipal employees, again, only one example is here printed — that of the street cleaners of New York City. Nearly every city charter contains provisions as to the hours of work, compensation, etc., of policemen, firemen, and other employees, while the larger cities have established, through action of the Legislature, retirement funds or service pensions. Such privileges are deemed to counterbalance the loss of certain constitutional rights upon entrance in the public service; firemen, for example, having no right to become members of an association that has for its object the influencing of legislation (*People ex rel. Clifford v. Scannell*, 74 App. Div. 406). The validity of this legislation has never been successfully challenged, so far as it relates to direct employment by public authorities. Public work done by contract, however, has been distinguished by the courts from work done by the employees of public authorities, but the amendment of the Constitution of 1905 brought such work under the authority of legislative enactment.]

### EMPOWERING THE LEGISLATURE TO REGULATE THE CONDITIONS OF EMPLOYMENT ON PUBLIC WORK.

#### CONSTITUTION OF THE STATE OF NEW YORK, ARTICLE XII.

Section 1. It shall be the duty of the Legislature to provide for the organization of cities and incorporated villages, and to restrict their power of taxation, assessment, borrowing money, contracting debts, and loaning their credit, so as to prevent abuses in assessments and in contracting debt by such municipal corporations; and the Legislature may regulate and fix the wages or salaries, the hours of work or labor, and make provision for the protection, welfare and safety of persons employed by the State or by any county, city, town, village or other civil division of the State, or by any contractor or sub-contractor performing work, labor or services for the State, or for any county, city, town, village or other civil division thereof. [*As amended in 1905.*]

### LABORERS EMPLOYED IN THE STATE SERVICE.

#### CIVIL SERVICE LAW, CHAPTER 7 OF THE CONSOLIDATED LAWS.

§ 10. Rules for the classified state service. \* \* \* No examination or registration shall be required of persons to be employed as laborers in the state service. \* \* \*

07. § 18 below, requiring registration of laborers for *municipal* employment.

### SEMI-MONTHLY PAYMENT OF WAGES TO STATE EMPLOYEES.

#### STATE FINANCE LAW, CHAPTER 56 OF THE CONSOLIDATED LAWS.

§ 2-a. The salaries of all officers of the state, and the wages of all employees thereof shall be due from and payable by the state twice each month, on the first and sixteenth days thereof, except where such days fall upon Sunday or a legal holiday when such payments shall be made upon the succeeding business day. Said salaries and wages shall be subject to



all the provisions of section thirteen hundred and ninety-one of the code of civil procedure applicable to any wages, debts, earnings or salary, as if the state and the said wages and salary due and payable by it had been particularly designated therein. The provisions of this section shall be deemed to supersede any other provision of this chapter or of any general or special law inconsistent herewith. [Added by L. 1910, ch. 317.]

#### **FIXING THE COMPENSATION OF EMPLOYEES OF STATE PRISONS.**

##### **PRISON LAW, CHAPTER 43 OF THE CONSOLIDATED LAWS.**

§ 114. Compensation of other officers.—The superintendent of state prisons shall, from time to time, prescribe the compensation of the other officers of said prisons, but the compensation so fixed and prescribed for the following officers in each of such prisons shall not in any case exceed the rate of an annual salary, as follows: To the principal keeper, two thousand dollars; to the kitchen-keeper, store-keeper, hall-keeper and yard-keeper, each twelve hundred dollars; to the sergeant of the guard, nine hundred dollars; to the state detective at Sing Sing prison, eighteen hundred dollars. Officers designated as keepers prior to June first, nineteen hundred and four, shall be classified as guards. The several guards shall be paid only for services actually rendered, and their annual compensation shall be subject to pro rata deduction for time not served. The compensation of guards appointed after said date, shall be as follows: For the first year's service, six hundred and sixty dollars; for the second year's service, seven hundred and forty dollars; for the third year's service, eight hundred and twenty dollars; for the fourth year's service, and thereafter, nine hundred dollars. The annual compensation of guards in service on said date shall be for services thereafter rendered, as follows: To those serving their first year as prison officers, seven hundred and eighty dollars; to those serving their second year as prison officers, eight hundred and twenty dollars; to those serving their third year as prison officers, eight hundred and sixty dollars; to those who have served three or more years as prison officers, nine hundred dollars.

#### **LABORERS AND MECHANICS IN STATE ARMORIES.**

##### **MILITARY LAW, CHAPTER 36 OF THE CONSOLIDATED LAWS.**

§ 189. Compensation of employees in armories.—The persons appointed under the provisions of the two preceding sections shall receive compensation for the time actually and necessarily employed in their duties, to be fixed by the officer appointing such persons as follows: When employed in armories or arsenals located in cities armorers, janitors and engineers not to exceed four dollars per day, unless the city has a population of less than fifty thousand, in which case such compensation shall not exceed three dollars per day, and not to exceed three dollars per day in armories or arsenals not located in cities; an armorer, janitor or engineer appointed by the commanding officer of an organization located in a city who under orders duly issued by such officer performs the whole or any part of his duties outside the limits of such city shall receive the compensation provided for an armorer, janitor or engineer employed in an armory located in such city; laborers not to exceed two dollars per day except in cities having a population of three hundred thousand or over, and in counties adjoining cities of the first class,

not to exceed three dollars per day. An armorer employed in an arsenal or armory having two hundred thousand or more square feet of floor surface and occupied by a regiment may in the discretion of the officer appointing, receive additional compensation not to exceed five dollars per day. The chief engineer in an armory having over two hundred thousand square feet of floor surface occupied by a regiment and lighted by electricity produced by machinery operated by the power of steam, if such steam is generated and machinery operated within such armory not to exceed five dollars per day. The compensation, as certified to by the officer appointing such persons, under the provisions of the two preceding sections, shall be paid semi-monthly upon the certificate of such officer, and shall be a county charge upon the county in which such armory or arsenal is situated; and shall be levied, collected and paid in the same manner as other county charges are levied, collected and paid. A commissioned officer in active service shall not be eligible for appointment to, and shall not hold the position of armorer, janitor, engineer or laborer in any armory or arsenal.

#### REGISTRATION OF LABORERS FOR MUNICIPAL EMPLOYMENT.

THE CIVIL SERVICE LAW, CHAPTER 7 OF THE CONSOLIDATED LAWS.

§ 18. **The labor class in cities.**—The labor class in cities shall include unskilled laborers and such skilled laborers as are not included in the competitive class or the non-competitive class. Vacancies in the labor class in cities shall be filled by appointment from lists of applicants registered by the municipal commissions. Preference in employment from such lists shall be given according to date of application. There shall be separate lists of applicants for different kinds of labor or employment, and the commissions may establish separate labor lists for various institutions and departments. Where the labor service of any department or institution extends to separate localities, the commissions may provide separate registration lists for each district or locality. The commissions shall require an applicant for registration for the labor service to furnish such evidence or pass such examination as they may deem proper with respect to his age, residence, physical condition, ability to labor, skill, capacity and experience in the trade or employment for which he applies.

Veterans of the Civil War, who, under the terms of the Constitution (Art. V, § 9) are entitled to preference in the civil service "without regard to their standing," are to be placed at the head of registration lists as though their application had been filed prior to those of persons not entitled to preference (§ 21 of the Civil Service Law).

#### FIXING WAGES AND SALARIES OF EMPLOYEES OF THE STREET CLEANING DEPARTMENT, NEW YORK CITY.

THE REVISED CHARTER (LAWS OF 1901, CHAPTER 466).

§ 536. The members of the department of street cleaning shall be divided into two general classes, to be designated, respectively, the clerical force and the uniformed force. The clerical force shall consist of a chief clerk, medical examiners, not exceeding three in number, and such and so many clerks and messengers as the commissioner of street cleaning shall deem necessary. The uniformed force shall be appointed by the commissioner of street cleaning, and shall consist of one general superintendent, one assistant superin-

tendent, one superintendent of final disposition, one assistant superintendent of final disposition, district superintendents, not exceeding twenty-one in number; time collectors, not exceeding eight in number; section foremen, not exceeding one hundred and twenty-five in number; dump inspectors, not exceeding forty-three in number; assistant dump inspectors, not exceeding forty-three in number; sweepers, not exceeding thirty-one hundred in number; dump boardmen, not exceeding forty-three in number; drivers, not exceeding sixteen hundred in number; stable foremen, not exceeding twenty-one in number; assistant stable foremen, not exceeding twenty-one in number; hostlers, not exceeding one head hostler to each stable and additional hostlers not exceeding one for each ten horses; a master mechanic and such and so many mechanics and helpers as may be necessary. The commissioner of street cleaning shall have power and is hereby authorized to increase the said uniformed force, from time to time, by adding to the number of sweepers, drivers and hostlers provided the board of estimate and apportionment and the board of aldermen shall have previously made an appropriation for the purpose of permitting such increase. The annual salaries and compensations of the members of the uniformed force of the department of street cleaning shall not exceed the following: Of the general superintendent, three thousand dollars; of the assistant superintendent, two thousand five hundred dollars; of the master mechanic, one thousand eight hundred dollars; of the superintendent of final disposition, two thousand dollars; of the assistant superintendent of final disposition, one thousand five hundred dollars; of the district superintendents, one thousand eight hundred dollars each; of the time collectors, one thousand two hundred dollars each; of the section foremen, one thousand two hundred dollars each; of sweepers or drivers acting as assistants to the section or stable foremen, nine hundred dollars each; of the dump inspectors, one thousand two hundred dollars each; of the assistant dump inspectors, nine hundred dollars each; of the dump boardmen, seven hundred and twenty dollars each; of the sweepers, seven hundred and twenty dollars each; of the drivers, seven hundred and twenty dollars each; of the stable foremen, one thousand three hundred dollars each; of the assistant stable foremen, one thousand dollars each; of the hostlers, seven hundred and twenty dollars each. Hostlers may receive extra pay for Sundays if an appropriation therefor is made by the board of estimate and apportionment. The members of the department of street cleaning shall be employed at all such times and during such hours and upon such duties as the commissioner of street cleaning shall direct for the purpose of an effective performance of the work devolving upon the said department. In case of a snow fall or other emergency, the commissioner of street cleaning or the deputy commissioner may hire and employ temporarily such and so many men, carts and horses as shall be rendered necessary by such emergency, forthwith reporting such action with the full particulars thereof to the mayor, but no man, cart or horse, shall be so hired or employed for a longer period than three days, except that any person registered or eligible to appointment as a driver, or as a sweeper, may be temporarily employed at any time as an extra driver or sweeper to fill the place of a driver or sweeper who is suspended or temporarily absent from duty from any cause. The rate of compensation for such extra drivers or sweepers shall be two dollars per day, and the driver

or sweeper whose place is so filled shall not receive any compensation for the time during which he is so absent from duty or his place is so filled, unless such injury or illness was caused by service in the department. The services of any person employed, and of carts and horses hired pursuant to this section, shall be paid for in full and directly by the department of street cleaning, at such times as may be prescribed by such department; and they, and each of them, shall be employed and hired directly by the department of street cleaning and not through contractors or other persons, unless the commissioner himself shall determine that this requirement must for proper action in a particular instance be dispensed with. Nothing herein contained shall affect any existing contracts made with or by the department of street cleaning in regard to the cleaning of Broadway below Fourteenth street in said city or the renewal thereof, if deemed best by the commissioner of said department. Neither the commissioner of street cleaning, nor any deputy commissioner of street cleaning, nor any member of the uniformed force of the street cleaning department, shall be permitted to contribute any moneys, directly or indirectly, to any political fund, or intended to affect legislation for or on behalf of the street cleaning department or any member thereof.

#### PROHIBITING THE SUB-LETTING OF PUBLIC CONTRACTS.

GENERAL MUNICIPAL LAW, CHAPTER 24 OF THE CONSOLIDATED LAWS.

(See also § 43 of State Finance Law, ch. 56 of the Consolidated Laws.)

§ 86. Contractors not to assign contracts with municipality without its consent.—A clause shall be inserted in all specifications or contracts hereafter made or awarded by any municipal corporation, or any public department or official thereof, prohibiting any contractor, to whom any contract shall be let, granted or awarded, as required by law, from assigning, transferring, conveying, subletting or otherwise disposing of the same, or of his right, title or interest therein, or his power to execute such contract to any other person, company or corporation, without the previous consent in writing of the department or official awarding the same.

If any contractor, to whom any contract is hereafter let, granted or awarded, as required by law, by any municipal corporation in the state, or by any public department or official thereof, shall, without the previous written consent specified in the first paragraph of this section, assign, transfer, convey, sublet, or otherwise dispose of the same, or his right, title or interest therein, or his power to execute such contract, to any other person, company or other corporation, the municipal corporation, public department, or official as the case may be, which let, made, granted or awarded said contract shall revoke and annul such contract, and the municipal corporation, public department or officer, as the case may be, shall be relieved and discharged from any and all liability and obligations growing out of said contract to such contractor, and to the person, company, or corporation to whom he shall assign, transfer, convey, sublet or otherwise dispose of the same, and said contractor, and his assignee, transferee, or sub-lessee, shall forfeit and lose all moneys, theretofore earned under said contract except so much as may be required to pay his employees; provided that nothing herein contained shall be construed to hinder, prevent or affect an assignment by such contractor for the benefit of his creditors, made pursuant to the statutes of this state.

**SECURING THE PAYMENT OF WAGES TO EMPLOYEES OF CONTRACTORS UPON CANALS.****CANAL LAW, CHAPTER 5 OF THE CONSOLIDATED LAWS.**

§ 145. Security for payment of laborers.—The superintendent of public works or assistant superintendent having charge, shall also require and take from the contractor, a bond with at least two good and sufficient sureties, conditioned that such contractor will well and truly pay in full, at least once in each month, all laborers employed by him on the work specified in such contract, which shall be duly acknowledged and filed in the office of the clerk of the county wherein such contract or work is to be performed, and if partly in two or more counties, such bond or a certified copy thereof shall be filed in the clerk's office of each county.

Actions may be brought for a breach of such bond by any laborer not paid in accordance with its terms, and the commencement or maintenance of an action by one or more laborers thereon shall not be a bar to the commencement and maintenance of other actions thereon by other laborers. No action shall be maintained against the sureties unless brought within thirty days after the completion of the labor the payment of which is secured by the bond.

Laborers are those who perform labor on canals and do not include sub-contractors. (Swift v. Kingsley, 24 Barb. 541; and see McCluskey v. Cromwell, 11 N. Y. 593.)

**AUTHORIZING THE EIGHT HOUR DAY UPON RESERVOIR CONSTRUCTION IN NEW YORK CITY.****LAWS OF 1902, CHAPTER 588.**

**AN ACT** relative to the powers of the aqueduct commissioners, provided for and holding office under and pursuant to the provisions of chapter four hundred and ninety of the laws of eighteen hundred and eighty-three, and its amendments.

Section 1. The aqueduct commissioners, provided for and holding office under and pursuant to the provisions of an act of the legislature of the state of New York, entitled "An act to provide new reservoirs, dams and a new aqueduct with the appurtenances thereto, for the purpose of supplying the city of New York with an increased supply of pure and wholesome water," said act being chapter four hundred and ninety of the laws of eighteen hundred and eighty-three, and its amendments, are hereby authorized and empowered to agree with any person, firm or corporation with whom they have contracted or may hereafter contract, upon such terms and conditions as shall in their judgment and discretion, be for the best interests of the city of New York, that eight hours shall constitute a day's work for all laborers employed by said person, firm or corporation in the performance of his or its contract and that no laborer employed in the performance of any such contract shall be required, permitted or allowed to work more than eight hours. No agreement made under the provisions of this act shall be valid or binding until the same has been approved by the board of estimate and apportionment of the city of New York.

## **PRISON LABOR.\***

### **OCCUPATION AND EMPLOYMENT OF CONVICTS.**

#### **CONSTITUTION OF STATE OF NEW YORK, ARTICLE III.**

Section 29. The Legislature shall by law provide for the occupation and employment of prisoners sentenced to the several State prisons, penitentiaries, jails and reformatories in the State; and on and after the first day of January, in the year one thousand eight hundred and ninety-seven, no person in any such prison, penitentiary, jail or reformatory, shall be required or allowed to work while under sentence thereto, at any trade, industry or occupation, wherein or whereby his work or the product or profit of his work, shall be farmed out, contracted, given or sold to any person, firm, association or corporation. This section shall not be construed to prevent the legislature from providing that convicts may work for, and that the products of their labor may be disposed of to, the State or any political division thereof, or for or to any public institution owned or managed and controlled by the State, or any political division thereof.

#### **PRISON LAW, CHAPTER 43 OF THE CONSOLIDATED LAWS.**

### **ARTICLE 7.**

#### **Prison Labor.**

##### **Section 170. Contracts prohibited.**

171. Prisoners to be employed; products of labor of prisoners.
172. Labor of prisoners of first grade, how directed.
173. Labor of prisoners of second grade, how directed.
174. Labor of prisoners of third grade, how directed.
175. Prisoners employed for use of state, and divisions thereof.
176. No printing or photo-engraving to be done by prisoners for use of state.
177. Labor of prisoners in prisons, reformatories and penitentiaries.
178. Labor of prisoners in certain institutions.
179. Employment of convicts on public highways.
180. Persons interfering with convicts employed on highways guilty of misdemeanor.
181. Classification of industries; report as to industries.
182. Articles manufactured to be furnished to the state or division thereof.
183. Estimates of articles required to be furnished commission of prisons by officers.
184. Board of classification; prices to be fixed.
185. Earnings of prisoners.
186. Disposition of fines.
187. Disposition of moneys paid to prisoner for his labor.
188. Monthly statement of receipts and expenditures for prison industries.
189. Statement of machinery and materials required.
190. Machinery and materials for prison industries, how purchased.
191. Disposition of machinery on discontinuance of industry.
192. Purchases to be included in estimates.
193. Deposits by agent and warden in banks.
194. Violations of prison labor regulations.

§ 170. Contracts prohibited.—The superintendent of state prisons shall not, nor shall any other authority whatsoever, make any contract by which the

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\* See also article 13 of the Labor Law, *ante*.

labor or time of any prisoner in any state prison, reformatory, penitentiary or jail in this state, or the product or profit of his work, shall be contracted, let, farmed out, given or sold to any person, firm, association or corporation; except that the convicts in said penal institutions may work for, and the products of their labor may be disposed of to, the state or any political division thereof or for or to any public institution owned or managed and controlled by the state, or any political division thereof.

§ 171. Prisoners to be employed; products of labor of prisoners.—The superintendent of state prisons, the superintendents, managers and officials of all reformatories and penitentiaries in the state, shall, so far as practicable, cause all the prisoners in said institutions, who are physically capable thereof, to be employed at hard labor, for not to exceed eight hours of each day, other than Sundays and public holidays, but such hard labor shall be either for the purpose of production of supplies for said institutions, or for the state, or any political division thereof, or for any public institution owned or managed and controlled by the state, or any political division thereof; or for the purpose of industrial training and instruction, or partly for one, and partly for the other of such purposes.

§ 172. Labor of prisoners of first grade, how directed.—The labor of the prisoners of the first grade in each of said prisons, reformatories and penitentiaries, shall be directed with reference to fitting the prisoner to maintain himself by honest industry after his discharge from imprisonment, as the primary or sole object of such labor, and such prisoners of the first grade may be so employed at hard labor for industrial training and instruction solely, even though no useful or salable products result from their labor, but only in case such industrial training or instruction can be more effectively given in such manner. Otherwise, and so far as is consistent with the primary object of the labor of prisoners of the first grade as aforesaid, the labor of such prisoners shall be so directed as to produce the greatest amount of useful products, articles and supplies needed and used in the said institutions, and in the buildings and offices of the state, or those of any political division thereof, or in any public institution owned or managed and controlled by the state or any political division thereof, or said labor may be for the state, or any political division thereof.

§ 173. Labor of prisoners of second grade, how directed.—The labor of prisoners of the second grade in said prisons, reformatories and penitentiaries shall be directed primarily to labor for the state or any political division thereof, or to the production and manufacture of useful articles and supplies for said institutions, or for any public institution owned or managed and controlled by the state, or any political division thereof.

§ 174. Labor of prisoners of third grade, how directed.—The labor of prisoners of the third grade shall be directed to such exercise as shall tend to the preservation of health, or they shall be employed in labor for the state, or a political division thereof, or in the manufacture of such useful articles and supplies as are needed and used in the said institutions, and in the public institutions owned or managed and controlled by the state, or any political division thereof.

§ 175. Prisoners employed for use of state, and divisions thereof.—All convicts sentenced to state prisons, reformatories and penitentiaries in the state, shall be employed for the state, or a political division thereof, or in productive industries for the benefit of the state, or the political divisions thereof, or for

the use of public institutions owned or managed and controlled by the state, or the political divisions thereof, which shall be under rules and regulations for the distribution and diversification thereof, to be established by the state commission of prisons.

**§ 176. No printing or photo-engraving to be done by prisoners for use of state.**—No printing or photo-engraving shall be done in any state prison, penitentiary or reformatory for the state or any political division thereof, or for any public institution owned or managed and controlled by the state or any such political division, except such printing as may be required for or used in the penal and state charitable institutions, and the reports of the state commission of prisons and the superintendent of prisons, and all printing required in their offices.

**§ 177. Labor of prisoners in prisons, reformatories and penitentiaries.**—The labor of the convicts in the state prisons and reformatories in the state, after the necessary labor for and manufacture of all needed supplies, for said institutions, shall be primarily devoted to the state and the public buildings and institutions thereof, and the manufacture of supplies for the state, and public institutions thereof, and secondly to the political divisions of the state, and public institutions thereof; and the labor of the convicts in the penitentiaries, after the necessary labor for and manufacture of all needed supplies for the same, shall be primarily devoted to the counties, respectively, in which said penitentiaries are located, and the towns, cities and villages therein, and to the manufacture of supplies for the public institutions of the counties, or the political divisions thereof, and secondly to the state and the public institutions thereof.

**§ 178. Labor of prisoners in certain institutions.**—The state board of managers of reformatories, and the managing authorities of all the penitentiaries or other penal institutions in this state, are hereby authorized and directed to conduct the labor of prisoners therein, respectively, in like manner and under like restrictions, as labor is authorized by sections one hundred and seventy and one hundred and seventy-one of this article, to be conducted in state prisons.

**§ 179. Employment of convicts on public highways.**—The superintendent of state prisons may employ or cause to be employed, not to exceed three hundred of the convicts confined in each state prison in the improvement of the public highways, within a radius of thirty miles from such prison and outside of an incorporated city or village.

The agent and warden of each prison may make such rules as he may deem necessary for the proper care of such prisoners while so employed, subject to the approval of the superintendent of state prisons.

The agent and warden of each prison may designate, subject to the approval of the superintendent of state prisons, the highways and portions thereof upon which such labor shall be employed; and such portions so designated and approved shall be under his control during the time such improvements are in progress, and the state engineer and surveyor shall fix the grade and width of the roadway of such highways and direct the manner in which the work shall be done.

The superintendent of state prisons is hereby authorized to purchase any machinery, tools and materials necessary in such employment.

**§ 182. Articles manufactured to be furnished to the state or division thereof.**—The superintendent of state prisons, and the superintendents of



reformatories and penitentiaries, respectively, are authorized and directed to cause to be manufactured by the convicts in the prisons, reformatories and penitentiaries, such articles as are needed and used therein, and also such as are required by the state or political divisions thereof, and in the buildings, offices and public institutions owned or managed and controlled by the state, including articles and materials to be used in the erection of the buildings. All such articles manufactured in the state prisons, reformatories and penitentiaries, and not required for use therein, shall be of the styles, patterns, designs and qualities fixed by the board of classification, and may be furnished to the state, or to any political division thereof, or for or to any public institution owned or managed and controlled by the state, or any political division thereof, at and for such prices as shall be fixed and determined as hereinafter provided, upon the requisitions of the proper officials, trustees or managers thereof. No article so manufactured shall be purchased from any other source, for the state or public institutions of the state, or the political divisions thereof, unless said state commission of prisons shall certify that the same can not be furnished upon such requisition, and no claim therefor shall be audited or paid without such certificate.

§ 183. **Estimates of articles required to be furnished commission of prisons by officers.**—On or before October first in each year, the proper officials of the state, and the political divisions thereof, and of the institutions of the state, or political divisions thereof, shall report to the said commission of prisons estimates for the ensuing year of the amount of supplies of different kinds required to be purchased by them that can be furnished by the penal institutions in the state. The said commission is authorized to make regulations for said reports, to provide for the manner in which requisitions shall be made for supplies, and to provide for the proper diversification of the industries in said penal institutions.

§ 184. **Board of classification; prices to be fixed.**—The fiscal supervisor of state charities, the state commission of prisons, and the superintendent of state prisons and the lunacy commission are hereby constituted a board to be known as the board of classification. Said board shall fix and determine the prices at which all labor performed, and all articles manufactured in the charitable institutions managed and controlled by the state and in the penal institutions in this state, and furnished to the state, or the political divisions thereof, or to the public institutions thereof, shall be furnished, which prices shall be uniform to all, except that the prices for goods or labor furnished by the penitentiaries to or for the county in which they are located, or the political divisions thereof, shall be fixed by the board of supervisors of such counties, except New York and Kings counties, in which the prices shall be fixed by the commissioners of charities and correction, respectively. The prices shall be as near the usual market price for such labor and supplies as possible. The state commission of prisons shall devise and furnish to all such institutions a proper form for such requisition, and the comptroller shall devise and furnish a proper system of accounts to be kept for all such transactions. It shall also be the duty of the board of classification to classify the buildings, offices and institutions owned or managed and controlled by the state, and it shall fix and determine the styles, patterns, designs and qualities of the articles to be manufactured for such buildings, offices and public institutions, in the charitable and penal

institutions in this state. So far as practicable, all supplies used in such buildings, offices and public institutions shall be uniform for each class, and of the styles, patterns, designs and qualities that can be manufactured in the penal institutions in this state.

§ 185. **Earnings of prisoners.**—Every prisoner confined in the state prisons, reformatories and penitentiaries, who shall become entitled to a diminution of his term of sentence by good conduct, may, in the discretion of the agent and warden, or of the superintendent of the reformatory, or superintendent of the penitentiary, receive compensation from the earnings of the prison or reformatory or penitentiary in which he is confined, such compensation to be graded by the agent and warden of the prison for the prisoners therein, and the superintendent of the reformatory and penitentiary for the prisoners therein, for the time such prisoner may work, but in no case shall the compensation allowed to such convicts exceed in amount ten percentum of the earnings of the prison or reformatory or penitentiary in which they are confined. The difference in the rate of compensation shall be based both on the pecuniary value of the work performed, and also on the willingness, industry and good conduct of such prisoner; provided, that whenever any prisoner shall forfeit his good time for misconduct or violation of the rules or regulations of the prison, reformatory or penitentiary, he shall forfeit out of the compensation allowed under this section fifty cents for each day of good time so forfeited; and provided, that prisoners serving life sentences shall be entitled to the benefit of this section when their conduct is such as would entitle other prisoners to a diminution of sentence, subject to forfeiture of good time for misconduct as herein provided. The agent and warden of each prison, or the superintendent of the reformatory or superintendent of the penitentiary may institute and maintain a uniform system of fines, to be imposed at his discretion, in place of his other penalties and punishments, to be deducted from such compensation standing to the credit of any prisoner, for misconduct by such prisoner.

#### **EMPLOYMENT OF PRISONERS IN COUNTY JAILS.**

THE COUNTY LAW, CHAPTER 16 OF THE CONSOLIDATED LAWS.

§ 93. **Food and labor.**—Prisoners detained for trial, and those under sentence, shall be provided with a sufficient quantity of plain but wholesome food, at the expense of the county; but prisoners detained for trial may, at their own expense, and under the direction of the keeper, be supplied with any other proper articles of food. Such keeper shall cause each prisoner committed to his jail for imprisonment under sentence, to be constantly employed at hard labor when practicable, during every day, except Sunday, and the board of supervisors of the county, or judge of the county, may prescribe the kind of labor at which such prisoner shall be employed; and the keeper shall account, at least annually, with the board of supervisors of the county, for the proceeds of such labor. Such keeper may, with the consent of the board of supervisors of the county, or the county judge, from time to time, cause such of the convicts under his charge as are capable of hard labor, to be employed outside of the jail in the same, or in an adjoining county, upon such terms as may be agreed upon between the keepers and the officers, or persons, under whose direction such convicts shall be placed, subject to such regulations as the board or judge may prescribe; and the board of supervisors of the several counties are authorized to employ convicts under sentence to

confinement in the county jails, in building and repairing penal institutions of the county and in building and repairing the highways in their respective counties or in preparing the materials for such highways for sale to and for the use of such counties or towns, villages, and cities therein; and to make rules and regulations for their employment; and the said board of supervisors are hereby authorized to cause money to be raised by taxation for the purpose of furnishing materials and carrying this provision into effect; and the courts of this State are hereby authorized to sentence convicts committed to detention in the county jails to such hard labor as may be provided for them by the boards of supervisors.

#### EMPLOYMENT OF PRISONERS IN NEW YORK CITY PENAL INSTITUTIONS.

##### LAWS OF 1901, CHAPTER 466 (THE NEW YORK CITY CHARTER).

§ 700. Employment of inmates; articles manufactured; cultivation of lands.— Every inmate of an institution under the charge of the commissioner, whose age and health will permit, shall be employed in quarrying or cutting stone, or in cultivating land under the control of the commissioner, or in manufacturing such articles as may be required for ordinary use in the institutions under the control of the commissioner, or for the use of any department of The City of New York, or in preparing and building sea walls upon islands or other places belonging to The City of New York upon which public institutions now are or may hereafter be erected, or in public works carried on by any department of the city, or at such mechanical or other labor as shall be found from experience to be suited to the capacity of the individual. The articles raised or manufactured by such labor shall be subject to the order of and shall be placed under the control of the commissioner, and shall be utilized in the institutions under his charge or in some other department of the city. All the lands under the jurisdiction of the commissioner not otherwise occupied or utilized, and which are capable of cultivation shall in the discretion of the commissioner be used for agricultural purposes.

§ 701. Detail of inmates to work in other departments.— At the request of any of the heads of the administrative departments of The City of New York (who are hereby empowered to make such request) the commissioner of correction may detail and designate any inmate or inmates of any of the institutions in the department of correction to perform work, labor and services in and upon the grounds and building or in and upon any public work or improvement under the charge of such other department. And such inmates when so employed shall at all times be under the personal oversight and direction of a keeper or keepers from the department of correction, but no inmate of any correctional institution shall be employed in any ward of any hospital except hospitals in penal institutions, while such ward is being used for hospital purposes. The provisions of this act or of law requiring advertisement for bids or proposals, or the awarding of contracts, for work to be done or supplies to be furnished for any of said departments shall not be applicable to public work which may be done or to the supplies which may be furnished under the provisions of the prison law.

§ 702. Hours of labor; discipline.— The hours of labor required of any inmate of any institution under the charge of the commissioner shall be fixed by the commissioner. \* \* \* \* \*

## **AGRICULTURAL LABOR.**

### **THE AGRICULTURAL LAW, CHAPTER 9 OF THE CONSOLIDATED LAWS.**

#### **ARTICLE 12.**

##### **Agricultural Statistics.**

Section 280. Collection and dissemination of statistics.

281. Information to be furnished by supervisors.

§ 280. Collection and dissemination of statistics.—The commissioner of agriculture may collect and disseminate such information relative to agriculture, and agricultural labor within the state, as he may deem wise for the purpose of promoting agricultural production within this state.

§ 281. Information to be furnished by supervisors.—Supervisors of the different towns and wards in this state shall furnish to the commissioner of agriculture upon request from him, upon blanks to be furnished by the said commissioner, such information as may be in their possession or may be obtained by them relative to agriculture, agricultural production and agricultural labor within their respective towns or wards. Such information shall be furnished to said commissioner within thirty days from the time it is asked for. The expense incurred by the several supervisors in furnishing such information shall be a town charge to be paid in the manner now provided by law for the payment of services and disbursements by such supervisor.

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## RAILWAY LABOR.

[See also DUTIES AND LIABILITIES OF EMPLOYERS, ETC. and sections 6, 7 and 8 of the Labor Law.]

### THE SAFETY OF RAILWAY EMPLOYEES.

THE RAILROAD LAW, CHAPTER 49 OF THE CONSOLIDATED LAWS.

§ 71. Duties imposed.—It shall be the duty of every railroad corporation operating its road by steam:

1. To lay, in the construction of new and in the renewal of existing switches, upon freight or passenger main line tracks, switches on the principle of either the so-called Tyler, Wharton, Lorenz, or split-point switch, or some other kind of safety switch, which shall prevent the derailment of a train, when such switch is misplaced or a switch interlocked with distant signals.

2. To erect and thereafter maintain such suitable warning signals at every road, bridge, or structure which crosses the railroad above the tracks, where such warning signals may be necessary, for the protection of employees on top of cars from injury.

3. To use upon every new freight car built or purchased for use, couplers which can be coupled and uncoupled automatically, without the necessity of having a person guide the link, lift the pin by hand, or go between the ends of the cars.

4. To attach to every car used for passenger transportation an automatic air-brake or other form of safety-power brake, applied from the locomotive, excepting cars attached to freight trains, the schedule rate of speed of which does not exceed twenty miles an hour.

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Every corporation, person or persons, operating such railroad, and violating any of the provisions of this section, except subdivision six, shall be liable to a penalty of one hundred dollars for each offense, and the further penalty of ten dollars for each day that it shall omit or neglect to comply with any of such provisions. For every violation of the provisions of the sixth subdivision of this section every such corporation shall be liable to a penalty of twenty-five dollars for each offense.

§ 72. Inspection of locomotive boilers.—It shall be the duty of every railroad corporation operated by steam power, within this state, and of the directors, managers or superintendents of such railroad to cause thorough inspections to be made of the boilers and their appurtenances of all the steam locomotives which shall be used by such corporation or corporations, on said railroads. Said inspections shall be made, at least every three months under the direction and superintendence of said corporations, or the directors, managers or superintendents thereof, by persons of suitable qualifications and attainments to perform the services required of inspectors of boilers, and who from their knowledge of the construction and use of boilers and the appurtenances therewith connected, are able to form a reliable opinion of the strength, form, workmanship and suitability of boilers, to be employed without hazard of life, from imperfections in material, workmanship or arrangement of any part of such boiler and appur-

tenances. All such boilers so used shall comply with the following requirements: The boilers must be made of good and suitable materials; the openings for the passage of water and steam respectively, and all pipes and tubes exposed to heat shall be of proper dimensions; the safety valves, fusible plugs, low water glass \* indicator, guage cocks and steam gauges, shall be of such construction, condition and arrangement that the same may be safely employed in the active service of the railroad corporation without peril to life; and each inspector shall satisfy himself by thorough examination that said requirements have been fully complied with. No boiler, nor any connection therewith shall be approved which is unsafe in its form, or dangerous from defects, workmanship or other cause. The person or persons who shall make the said inspections if he or they approve of the boiler or boilers and the appurtenances throughout, shall make and subscribe his or their name to a written or printed certificate which shall contain the number of each boiler inspected, the date of its inspection, the condition of the boiler inspected, and such details as may be required by the forms and regulations which shall be prescribed by the public service commission. Every certificate shall be verified by the oath of the inspector, and he shall cause such certificate or certificates to be filed in the office of the public service commission, within ten days after each inspection shall have been made, and also a copy thereof with the chief operating officer or employee of such railroad having charge of the operation of such locomotive boiler; a copy shall also be placed by such officer or employee in a conspicuous place in the cab connected with the locomotive boiler inspected, and there kept framed under glass. The public service commission shall have power, from time to time, to formulate rules and regulations for the inspection and testing of boilers as aforesaid, and may require the removal of incompetent inspectors of boilers under the provisions of this section. Copies of such rules and regulations shall be mailed to every corporation operating a railroad by steam in this state. If it shall be ascertained by such inspection and test or otherwise, that any locomotive boiler is unsafe for use, the same shall not again be used until it shall be repaired, and made safe, so as to comply with the requirements of this section. Every corporation, director, manager or superintendent operating such railroad and violating any of the provisions of this section shall be liable to a penalty, to be paid to the people of the state of New York, of one hundred dollars for each offense, and the further penalty of one hundred dollars for each day it or he shall omit or neglect to comply with said provisions, and the making or filing of a false certificate shall be a misdemeanor, and every inspector who wilfully certifies falsely touching any steam boiler, or any appurtenance thereto belonging, or any matter or thing contained or required to be contained in any certificate, signed and sworn to by him, shall be guilty of a misdemeanor. Any person, upon application to the secretary of said commission and on the payment of such reasonable fee as said commission may by rule fix, shall be furnished with a copy of any such certificate. The public service commission shall enforce the provisions of this section as to penalties.

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\* So in original.

§ 73. **State inspector of locomotive boilers.**—The office of state inspector of locomotive boilers is continued. Said inspector shall be appointed by the public service commissions and shall receive a compensation to be fixed by the commission, not exceeding three thousand dollars per year. He shall, under the direction of the commission, inspect boilers or locomotives used by railroad corporations operating steam railroads within the state, and may cause the same to be tested by hydrostatic test and shall perform such other duties in connection with the inspection and test of locomotive boilers as the commission shall direct. But this section shall not relieve any railroad corporation from the duties imposed by the preceding section.

§ 74. **Care of steam locomotives; steam and water cocks; penalty.**—It shall be the duty of every corporation operating a steam railroad, within this state, and of its directors, managers or superintendents, to cause the boiler of every locomotive used on such railroad to be washed out as often as once every thirty days, and to equip each boiler with and maintain thereon at all times, a water glass, showing the height of water in the boiler, having two valves or shut-off cocks, one at each end of such glass, which valves or shut-off cocks shall be so constructed that they can be easily opened and closed by hand; also to cause such valves or shut-off cocks and all gauge cocks or try-cocks attached to the boiler to be removed and cleaned whenever the boiler is washed out pursuant to the foregoing requirements of this section; also to keep all steam valves, cocks and joints, studs, bolts and seams in such repair that they will not at any time emit steam in front of the engineer, so as to obscure his vision. No locomotive shall hereafter be driven in this state unless the same is equipped and cared for in conformity with the provisions of this section; but nothing herein contained shall be construed to excuse the observance of any other requirement imposed by this chapter upon railroad corporations, their directors, officers, managers and superintendents. Every corporation, person or persons operating a steam railroad and violating any of the provisions of this section, shall be liable to a penalty of one hundred dollars for each offense, and the further penalty of ten dollars for each day that such violation shall continue. The public service commission shall enforce the provisions of this section.

§ 75. **Public service commission may approve other safeguards.**—The public service commission may, on the application of any railroad corporation, authorize it to use any other safeguard or device approved by the commission, in place of any safeguard or device hereinbefore required by this article, which shall thereafter be used in lieu thereof, and the same penalties for neglect or refusal to use the same shall be incurred and imposed as for a failure to use the safeguard or device hereinbefore required, in lieu of which the same is to be used.

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§ 77. **Equipment of engines.**—It shall be unlawful for any railroad company to use within the state on its line or lines any locomotive engine not equipped with a power driving wheel brake and appliances for operating the train brake system.

§ 78. **Coal jimmies.**—The use of cars known and designated as "coal jimmies" in any form and the use of any car as a caboose unless it shall

have a suitable and safe platform at each end thereof, and the usual railing for the protection of persons using such platform, shall be unlawful within the state, except upon any railroad whose main line is less than fifteen miles in length and whose average grade exceeds two hundred feet to the mile. This section shall not be construed to authorize the interchange of such "coal jimmies" with, and the use thereof upon, railroads of more than fifteen miles in length or whose average grade is less than two hundred feet to the mile.

§ 79. **Air-brakes.**—It shall be unlawful for any railroad or other company to haul or permit to be hauled or used on its line or lines within this state any freight train that has not a sufficient number of cars in it so equipped with continuous power or air-brakes that the engineer on the locomotive drawing such train can control its speed without requiring brakemen to use the common hand brake for that purpose.

§ 80. **Couplers.**—It shall be unlawful for any railroad or other company to haul, or permit to be hauled or used, on its line or lines within the state, any freight car not equipped with couplers of the master car builders' type, and coupling automatically by impact, and which can be uncoupled, except in cases of accident, without the necessity of men going between the ends of the cars.

§ 81. **Violation of four preceding sections.**—Any railroad or other company hauling or permitting to be hauled on its line or lines any train in violation of any of the provisions of the preceding four sections shall be liable to a penalty of one hundred dollars for each and every violation, to be recovered in an action to be brought by the public service commission in the name of the people and in the judicial district wherein the principal office of the company within the state is located.

#### PENAL LAW, CHAPTER 40 OF THE CONSOLIDATED LAWS.

§ 1988. **Guard posts; automatic couplers.**—All corporations and persons other than employees, operating any steam railroad in this state:

1. Failing to cause guard posts to be placed in prolongation of the line of bridge trusses upon such railroad, so that in case of derailment, the posts and not the trusses shall receive the blow of the derailed locomotive or car; or,
2. Failing to equip all of their own freight cars, run and used in freight or other trains on such railroad, with automatic self-couplers, or running or operating on such railroad any freight car belonging to any such person or corporation, without having the same equipped, except in case of accident or other emergency, with automatic self-couplers, and except within the extended time allowed by the public service commission, in pursuance of law, for equipping such car with such couplers, is guilty of a misdemeanor, punishable by a fine of five hundred dollars for each offense.

#### PUBLIC SERVICE COMMISSIONS LAW, CHAPTER 48 OF THE CONSOLIDATED LAWS.

§ 47. **Investigation of accidents.**—Each commission shall investigate the cause of all accidents on any railroad or street railroad within its district which result in loss of life or injury to persons or property, and which in its judgment shall require investigation. Every common carrier, railroad corporation and street railroad corporation is hereby required to give imme-



date notice to the commission of every accident happening upon any line of railroad or street railroad owned, operated, controlled or leased by it, within the territory over which such commission has jurisdiction in such manner as the commission may direct. Such notice shall not be admitted as evidence or used for any purpose against such common carrier, railroad corporation or street railroad corporation giving such notice in any suit or action for damages growing out of any matter mentioned in said notice.

See also § 66 authorizing the Commissions to order improvements necessary to protect persons employed in the manufacture and distribution of gas or electricity.

#### ENCLOSURE OF STREET CAR PLATFORMS.

##### THE RAILROAD LAW, CHAPTER 49 OF THE CONSOLIDATED LAWS.

§ 194. **Protection of employees.**—Every corporation operating a street surface railroad in this state, except such as operate a railroad or railroads either in the borough of Manhattan or Brooklyn, in the city of New York, shall cause the front and rear platforms of every passenger car propelled by electricity, cable or compressed air, operated on any division of such railroad which extends in or between towns or outside of city limits, during the months of December, January, February and March, except cars attached to the rear of other cars, to be inclosed from the fronts of the platforms to the fronts of the hoods, so as to afford protection to any person stationed by such corporation on such platforms to perform duties in connection with the operation of such cars. Every corporation or person using and operating a car in violation of this section shall be liable to a penalty of twenty-five dollars per day for each car so used and operated, to be collected in an action brought by the public service commission and to be paid to the treasurer of the state of New York, or in a suit by the attorney of the municipality in which the violation of the provisions of this section occurs, to be paid into the treasury of such municipality.

§ 195. **Platforms on new cars, how constructed.**—All street surface railroad passenger cars purchased, built or rebuilt after the first day of December, nineteen hundred and four, and operated in the state of New York on and after said date, except those owned by any company operating either in the borough of Manhattan or Brooklyn, in the city of New York, shall be constructed in accordance with the provisions of the preceding section.

§ 196. **Protection to employees in the counties of Albany and Rensselaer.**—Every corporation operating a street surface railroad in the counties of Albany and Rensselaer shall cause the front and rear platforms of every car propelled by electricity, cable or compressed air, during the months of December, January, February and March, except cars attached to the rear of other cars, to be inclosed from the front and at least one side of the platform to the hood; so as to afford protection to any person stationed by such corporation on such platforms to perform duties in connection with the operation of such cars. Platforms on cars on such street surface railroads used more than one mile outside the limits of a city shall be completely inclosed from platform to hood. Every corporation using and operating a car in violation of this section shall be liable to a penalty of twenty-five dollars per day for each car so used and operated, to be collected by the people to the use of the poor of the county in which such

corporation has its principal office, in an action brought by the public service commission or the district attorney of such county. The supreme court may, on the application of a citizen, direct the district attorney to bring such action.

§ 197. **Protection of employees in the counties of Kings and Queens.**—Every corporation operating a street surface railroad in the counties of Kings or Queens, shall cause the front and rear platforms of every passenger car propelled by electricity, cable or compressed air, operated on any division of such railroad during the months of December, January, February and March, except cars attached to the rear of other cars, to be inclosed from the fronts of the platforms to the fronts of the hoods so as to afford protection to any person stationed by such corporation on such platforms to perform duties connected with the operation of such cars. Every corporation or person using and operating a car in violation of this section shall be liable to a penalty of twenty-five dollars per day for each car used and operated, to be collected in an action brought by the public service commission and to be paid to the treasurer of the city of New York, or in a suit by the district attorney of the counties of Kings or Queens to be paid into the treasury of the city of New York.

**QUALIFICATIONS OF ENGINEERS AND TELEGRAPHERS.**

**PENAL LAW, CHAPTER 40 OF THE CONSOLIDATED LAWS.**

§ 1982. **Person unable to read not to act or be employed as engineer.**—Any person unable to read the time-tables of a railroad and ordinary handwriting, who acts as an engineer or runs a locomotive or train on any railroad in this state; or any person who, in his own behalf, or in the behalf of any other person or corporation, knowingly employs a person so unable to read to act as such engineer or to run any such locomotive; or who employs a person as a telegraph operator who is under the age of eighteen years, or who has less than one year's experience in telegraphing, to receive or transmit a telegraphic message or train order for the movement of trains, is guilty of a misdemeanor.

**QUALIFICATIONS OF STREET RAILWAY CONDUCTORS, MOTORMEN, ETC.**

**THE RAILROAD LAW, CHAPTER 49 OF THE CONSOLIDATED LAWS.**

§ 63. **Persons employed as drivers, conductors, motormen or gripmen.**—Any railroad corporation may employ any inhabitant of the state, of the age of twenty-one years, not addicted to the use of intoxicating liquors, as a car driver, conductor, motorman or gripman, or in any other capacity, if fit and competent therefor. All applicants for positions as motormen or gripmen on any street surface railroad in this state shall be subjected to a thorough examination by the officers of the corporation as to their habits, physical ability and intelligence. If this examination is satisfactory, the applicant shall be placed in the shop or power house where he can be made familiar with the power and machinery he is about to control. He shall then be placed on a car with an instructor, and when the latter is satisfied as to the applicant's capability for the position of motorman or gripman, he shall so certify to the officers of the company, and, if appointed, the applicant shall first serve on the lines of least travel. Any violation of the provisions of this section shall be a misdemeanor.

**EMPLOYMENT OF INTEMPERATE PERSONS ON RAILWAYS AND STEAMBOATS.****PENAL LAW, CHAPTER 40 OF THE CONSOLIDATED LAWS.****§ 1913. Employment by common carrier of person addicted to intoxication.**

— Any person or officer of an association or corporation engaged in the business of conveying passengers or property for hire, who shall employ in the conduct of such business, as an engineer, fireman, conductor, switch-tender, train dispatcher, telegrapher, commander, pilot, mate, fireman or in other like capacity, so that by his neglect of duty, the safety and security of life, person or property so conveyed might be imperiled, any person who habitually indulges in the intemperate use of liquors, after notice that such person has been intoxicated, while in the active service of such person, association or corporation, shall be guilty of a misdemeanor.

**§ 1984. Intoxication or other misconduct of railroad or steamboat employees.—**

1. Any person who, being employed upon any railway as engineer, conductor, baggagemaster, brakeman, switch-tender, fireman, bridge-tender, flagman, signal man, or having charge of stations, starting, regulating or running trains upon a railroad, or, being employed as captain, engineer or other officer of a vessel propelled by steam, is intoxicated while engaged in the discharge of any such duties; or,

2. An engineer, conductor, brakeman, switch-tender, or other officer, agent or employee of any railroad corporation, who wilfully violates or omits his duty as such officer, agent or employee, by which human life or safety is endangered, the punishment of which is not otherwise prescribed,

Is guilty of a misdemeanor.

See also §§ 322-323 of the Highway Law (ch. 25 of the Consolidated Laws) forbidding the employment of persons addicted to drunkenness by owners of public carriages.

**MISCONDUCT OF OFFICIALS OR EMPLOYEES ON ELEVATED RAILROADS.****PENAL LAW, CHAPTER 40 OF THE CONSOLIDATED LAWS.**

**§ 1983. Misconduct of officials or employees on elevated railroads.—**Any conductor, brakeman, or other agent or employee of an elevated railroad, who:

1. Starts any train or car of such railroad, or gives any signal or order to any engineer or other person to start any such train or car, before every passenger therein who manifests an intention to depart therefrom by arising, or moving toward the exit thereof, has departed therefrom; or before every passenger on the platform or station at which the train has stopped, who manifests a desire to enter the train, has actually boarded or entered the same, unless due notice is given by an authorized employee of such railroad that the train is full, and that no more passengers can then be received; or,

2. Obstructs the lawful ingress or egress of a passenger to or from any such car; or,

3. Opens a platform gate of any such car while the train is in motion, or starts such train before such gate is firmly closed,

Is guilty of a misdemeanor.

Formerly Penal Code, § 419.

**WEARING OF UNIFORMS AND BADGES.**

**PENAL LAW, CHAPTER 40 OF THE CONSOLIDATED LAWS.**

**§ 1989. Inciting railroad employees not to wear uniform; unauthorized wearing of uniform.**—A person who:

1. Advises or induces any one, being an officer, agent or employee of a railway company, to leave the service of such company, because it requires a uniform to be worn by such officer, agent or employee, or to refuse to wear such uniform, or any part thereof; or,

2. Uses any inducement with a person employed by a railway company to go into the service or employment of any other railway company, because a uniform is required to be worn; or,

3. Wears the uniform designated by a railway company without authority, is guilty of a misdemeanor.

**RAILROAD LAW, CHAPTER 49 OF THE CONSOLIDATED LAWS.**

**§ 65. Conductors and employees must wear badges.**—Every conductor and employee of a railroad corporation employed on a passenger train, or at stations for passengers, shall wear upon his hat or cap a badge, which shall indicate his office or employment, and the initial letters of the corporation employing him. No conductor or collector without such badge shall demand or receive from any passenger any fare or ticket or exercise any of the powers of his employment. No officer or employee without such badge shall meddle or interfere with any passenger, his baggage or property.

**CONDUCTORS AND TRAINMEN AS POLICEMEN.**

**RAILROAD LAW, CHAPTER 49 OF THE CONSOLIDATED LAWS.**

**§ 88. When conductors and brakemen may be policemen.**—The governor may appoint any conductor or brakeman on any train conveying passengers on any steam railroad in this state, a policeman, with all the powers of a policeman in cities and villages, for the preservation of order and of the public peace, and the arrest of all persons committing offenses upon the land or property of the corporation owning or operating such railroad; and he may also appoint, on the application of any such corporation, or of any steamboat company, such additional policemen, designated by it, as he may deem proper, who shall have the same powers. Every such policeman shall within fifteen days after receiving his commission, and before entering upon the duties of his office, take and subscribe the constitutional oath of office, and file it with his commission in the office of the secretary of state. Every such policeman shall when on duty wear a metallic shield, with the words "railroad police" or "steamboat police" as the case may be, and the name of the corporation for which appointed inscribed thereon, which shall always be worn in plain view, except when employed as a detective. The compensation of every such policeman shall be such as may be agreed upon between him and the corporation for which he is appointed, and shall be paid by the corporation. When any corporation shall no longer require the services of any such policeman it may file notice to that effect in the office in which notice of his appointment was originally filed, and thereupon such appointment shall cease and be at an end.

**PROVIDING FOR BAIL OF RAILWAY EMPLOYEES IN CASES OF ACCIDENT.****CODE OF CRIMINAL PROCEDURE.**

§ 554a. **Bail of certain railroad employees.**—Whenever a person employed as an engineer, fireman, motorman, conductor, trainman or otherwise, on a train or car of a steam, elevated or street surface railroad, is arrested in any city on a criminal charge, arising from an accident in connection with the operation of such train or car, resulting in an injury or death to a person or injury to property, such engineer, fireman, motorman, conductor, trainman or other employee, shall be immediately taken before a magistrate, if one is accessible, and otherwise, before a captain or sergeant of police, or acting sergeant of police, in charge of a police station in such city, and be given an opportunity to be admitted to bail. Such bail shall be taken in the same manner, so far as practicable, as is provided by section five hundred and fifty-four of this code, for the taking of bail in case of misdemeanors by a captain or sergeant of police, or acting sergeant of police in a city or village, except that the amount of bail shall be fixed by such officer at not exceeding one thousand dollars, and except that the undertaking shall provide for the appearance of the defendant before the magistrate, coroner, or other officer, who, except for this section, would be authorized to take such bail. Such officer may however in his discretion, instead of exacting bail release such employee on his own recognizance, conditional for his appearance as above provided in case an undertaking is required. [*Added by L. 1903, ch. 614.*]

**UNCLAIMED ARTICLES FOUND IN PUBLIC VEHICLES TO BE SOLD FOR BENEFIT OF EMPLOYEES' ASSOCIATION.****RAILROAD LAW, CHAPTER 49 OF THE CONSOLIDATED LAWS.**

§ 199. **Sale of unclaimed property.**—It shall be the duty of every street surface railroad corporation doing business in this state, and of every corporation engaged in this state in the business of carrying passengers for hire in cabs, coaches, or other similar vehicles or of letting such vehicles for hire, or in the business of operating a line of stages or omnibuses, which shall have unclaimed property left in its cars, cabs, coaches, stages or other similar vehicles, to ascertain if possible, the owner or owners of such property, and to notify such owner or owners of the fact by mail as soon as possible, after such property comes into its possession. Every such corporation which shall have such property not perishable, in its possession for the period of three months, may sell the same at public auction, after giving notice to that effect, by one publication, at least ten days prior to the sale, in a daily newspaper published in the city or village in which such sale is to take place, of the time and place at which such sale will be held, and such sale may be adjourned from time to time until all the articles offered for sale are sold. All perishable property so left, may be sold by any such corporation without notice, as soon as it can be, upon the best terms that can be obtained.

§ 200. **Disposition of proceeds.**—All moneys arising from the sale of any such unclaimed property, after deducting charges for storage and expenses of sale, shall be paid by any such corporation to the treasurer of any association, composed of the employees of such corporation, having for its object the

pecuniary assistance of its members in case of disability caused by sickness or accident, for the use and benefit of such association and its members; and where no such association of the employees of any such corporation is in existence at the time of any such sale, such moneys shall be paid over to the county treasurer of the county or if in a city, to the chief fiscal officer thereof, in which such sale took place for the benefit of such city or county.

*Cf.* Railroad Law, § 68, relating to sale of "Unclaimed freight and baggage," and General Business Law (ch. 20 of the Consolidated Laws), §§ 207-208, relating to sale of unclaimed articles in hotels, for benefit of county poor.

#### COMPLAINTS TO PUBLIC SERVICE COMMISSIONS.

##### PUBLIC SERVICE COMMISSIONS LAW, CHAPTER 48 OF THE CONSOLIDATED LAWS.

§ 45. General powers and duties of commissions in respect to common carriers, railroads and street railroads.— \* \* \* 2. Each commission shall have the general supervision of all common carriers, railroads, street railroads, railroad corporations and street railroad corporations within its jurisdiction as hereinbefore defined, and shall have power to and shall examine the same and keep informed as to their general condition, their capitalization, their franchises and the manner in which their lines and property, owned, leased, controlled or operated, are managed, conducted and operated, not only with respect to the adequacy, security and accommodation afforded by their service, but also with respect to their compliance with all provisions of law, orders of the commission and charter requirements. Each commission shall have power, either through its members or responsible engineers or inspectors duly authorized by it, to enter in or upon and to inspect the property, equipment, buildings, plants, factories, power-houses and offices of any of such corporations or persons, including the right for such inspection purpose to ride upon any freight locomotive or train or any passenger locomotive or train while in service; and to have upon reasonable notice the use of an inspection locomotive or special locomotive and inspection car for a physical inspection once annually of all the lines and stations of each common carrier under its supervision; and to the extent that such facilities for inspection involve transportation each commissioner and each such employee shall pay the published one-way fare established by the common carrier for the transportation of persons by regular passenger trains over the distance covered by such inspection. The cost of such transportation, if the commission so elects, may be paid upon bill rendered to the commission after the transportation has been furnished and the amount thereof ascertained.

3. Each commission and each commissioner shall have power to examine all books, contracts, records, documents and papers of any person or corporation subject to its supervision, and by subpoena duces tecum to compel production thereof. In lieu of requiring production of originals by subpoena duces tecum, the commission or any commissioner may require sworn copies of any such books, records, contracts, documents and papers or parts thereof to be filed with it.

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§ 48. Investigations by commission.— 1. Each commission may, of its own motion, investigate or make inquiry, in a manner to be determined by it, as to any act or thing done or omitted to be done by any common carrier,

railroad corporation or street railroad corporation, subject to its supervision, and the commission must make such inquiry in regard to any act or thing done or omitted to be done by any such common carrier, railroad corporation or street railroad corporation in violation of any provision of law or in violation of any order of the commission.

2. Complaints may be made to the proper commission by any person or corporation aggrieved, by petition or complaint in writing setting forth any thing or act done or omitted to be done by any common carrier, railroad corporation or street railroad corporation in violation, or claimed to be in violation, of any provision of law or of the terms and conditions of its franchise or charter or of any order of the commission. Upon the presentation of such a complaint the commission shall cause a copy thereof to be forwarded to the person or corporation complained of, which may be accompanied by an order, directed to such person or corporation, requiring that the matters complained of be satisfied, or that the charges be answered in writing within a time to be specified by the commission. If the person or corporation complained of shall make reparation for any injury alleged and shall cease to commit, or to permit, the violation of law, franchise or order charged in the complaint, and shall notify the commission of that fact before the time allowed for answer, the commission need take no further action upon the charges. If, however, the charges contained in such petition be not thus satisfied, and it shall appear to the commission that there are reasonable grounds therefor, it shall investigate such charges in such manner and by such means as it shall deem proper, and take such action within its powers as the facts justify.

3. Whenever either commission shall investigate any matter complained of by any person or corporation aggrieved by any act or omission of a common carrier, railroad corporation or street railroad corporation under this section it shall be its duty to make and file an order either dismissing the petition or complaint or directing the common carrier, railroad corporation or street railroad corporation complained of to satisfy the cause of complaint in whole or to the extent which the commission may specify and require.

## INDUSTRIAL EDUCATION.

### THE APPRENTICE SYSTEM.

[Apprenticeship is regulated by Article VIII of the Domestic Relations Law (printed below), which is enforced by the Commissioner of Labor (see § 67 of the Labor Law, *ante*). The Penal Law makes it a misdemeanor to take an apprentice without the consent of the parent or guardian (§ 1275, 3, *ante*), and the Code of Criminal Procedure (Title IX of Part VI) prescribes the proceedings respecting masters, apprentices and servants.]

### DOMESTIC RELATIONS LAW, CHAPTER 14 OF THE CONSOLIDATED LAWS.

#### ARTICLE 8.

##### Apprentices and Servants.

Section 120. Definitions; effect of article.

121. Contents of indenture.

122. Indenture by minor; by whom signed.

123. Indenture by poor officers; by whom signed.

124. Binding out children by charitable corporation; indenture; by whom signed.

125. Penalty for failure of master or employer to perform provisions of indenture.

126. Assignment of indenture on death of master or employer.

127. Contract with apprentice in restraint of trade void.

§ 120. Definitions; effect of article.— The instrument whereby a minor is bound out to serve as a clerk or servant in any trade, profession or employment, or is apprenticed to learn the art or mystery of any trade or craft, is an indenture.

Every indenture made in pursuance of the laws repealed by this chapter shall be valid hereunder, but hereafter a minor shall not be bound out or apprenticed except in pursuance of this article.

§ 121. Contents of indenture.— Every indenture must contain:

1. The names of the parties;
2. The age of the minor as nearly as can be ascertained, which age on the filing of the indenture shall be taken *prima facie* to be the true age;
3. A statement of the nature of the service or employment to which the minor is bound or apprenticed;
4. The term of service or apprenticeship, stating the beginning and end thereof;
5. An agreement that the minor will not leave his master or employer during the term for which he is indentured;
6. An agreement that suitable and proper board, lodging and medical attendance for the minor during the continuance of the term shall be provided, either by the master or employer, or by the parent or guardian of the apprentice;
7. A statement of every sum of money paid or agreed to be paid in relation to the service;
8. If such minor is bound as an apprentice to learn the art or mystery of any trade or craft, an agreement on the part of the employer to teach, or cause to be carefully and skillfully taught, to such apprentice, every branch of the business to which such apprentice is indentured, and that at the ex-



piration of such apprenticeship he will give to such apprentice a certificate, in writing, that such apprentice has served at such trade or craft a full term of apprenticeship specified in such indenture;

9. If a minor is indentured by the poor officers of a county, city of town, or by the authorities of an orphan asylum, penal or charitable institution, an agreement that the master or employer will cause such child to be instructed in reading, writing and the general rules of arithmetic, and that at the expiration of the term of service he will give to such minor a new bible.

Every such indenture shall be filed in the office of the county clerk of the county where the master or employer resides.

**§ 122. Indenture by minor; by whom signed.**—Any minor may, by the execution of the indenture provided by this article, bind himself or herself:

1. As an apprentice to learn the art or mystery of any trade or craft for a term of not less than three nor more than five years;

2. As a servant or clerk in any profession, trade or employment for a term of service not longer than the minority of such minor, unless such indenture be made by a minor coming from a foreign country, for the purpose of paying his passage, when such indenture may be made for a term of one year although such term may extend beyond the time when such person will be of full age.

An indenture made in pursuance of this section must be signed,

1. By the minor;

2. By the father of the minor unless he is legally incapable of giving consent or has abandoned his family;

3. By the mother of the minor unless she is legally incapable of giving consent;

4. By the guardian of the person of the minor, if any;

5. If there be neither parents nor guardian of the minor legally capable of giving consent, by the county judge of the county, or a justice of the supreme court of the district, in which the minor resides; whose consent shall be necessary to the binding out or apprenticing in pursuance of this section of a minor coming from a foreign country or of the child of an Indian woman, in addition to the other consents herein provided;

6. By the master or employer.

**§ 123. Indenture by poor officers; by whom signed.**—The poor officers of a municipal corporation may, by an execution of the indenture provided by this article, bind out or apprentice any minor whose support shall become chargeable to such municipal corporation.

In such case the indenture shall be signed,

1. By the officer or officers binding out or apprenticing the minor;

2. By the master or employer;

3. By the county judge of the county, if the support of such child was chargeable to the county, by two justices of the peace, if chargeable to the town, or by the mayor and aldermen or any two of them, if chargeable to the city.

The poor officers by whom a child is indentured and their successors in office shall be guardians of every such child and shall inquire into the treatment thereof, and redress any grievance as provided by law.

**§ 124. Binding out children by charitable corporation; indenture; by**

whom signed.—An orphan asylum or charitable institution, incorporated for the care of orphans, friendless or destitute children, may bind out as an apprentice, clerk or servant, an indigent or poor child by an indenture in writing. Such child must have been absolutely surrendered to the care and custody of such asylum or institution in pursuance of this chapter, or have been placed therein as a poor person, as provided in section fifty-six of the poor law, or have been left to the care of such asylum or institution with no provision by the parent, relative or legal guardian of such child, for its support, for a period of one year then next preceding. Such indenture shall bind such child, if a male, for a period which shall not extend beyond his twenty-first year, and if a female, for a period which shall not extend beyond her eighteenth year. Every such child shall, when practicable, be bound out or apprenticed to persons of the same religious faith as the parents of such child. The indenture shall in such case be signed:

1. In the corporate name of such institution by the officer or officers thereof authorized by the directors to sign the corporate name to such instrument, and shall be sealed with the corporate seal;

2. By the master or employer.

Such indenture may also be signed by the child, if over twelve years of age.

§ 125. **Penalty for failure of master or employer to perform provisions of indenture.**—If a master or employer to whom a minor has been indentured shall fail, during the term of service, to perform any provision of such indenture on his part, such minor or any person in his behalf may bring an action against the master or employer to recover damages for such failure; and if satisfied that there is sufficient cause, the court shall direct such indenture to be canceled, and may render judgment against such master or employer for not to exceed one thousand nor less than one hundred dollars, to be collected and paid over for the use and benefit of such minor to the corporation or officers indenturing such minor, if so indentured, and otherwise, to the parents or guardian of the child.

§ 126. **Assignment of indenture on death of master or employer.**—On the death of a master or employer to whom a person is indentured by the poor officers of a municipal corporation, the personal representatives of the master or employer may, with the written and acknowledged consent of such person, assign such indenture and the assignee shall become vested with all the rights and subject to all the liabilities of his assignor, or if such consent be refused, the assignment may be made with like effect by the county judge of the county, on proof that fourteen days' notice of the application therefor has been given to the person indentured, to the officers by whom indentured, and to his parent or guardian, if in the country.

§ 127. **Contract with apprentice in restraint of trade void.**—No person shall accept from any apprentice any agreement or cause him to be bound by oath, that after his term of service expires he will not exercise his trade, profession or employment in any particular place; nor shall any person exact from any apprentice, after his term of service expires, any money or other thing, for exercising his trade, profession or employment in any place. Any security given in violation of this section shall be void; and any money paid, or valuable thing delivered, for the consideration, in whole or in part, of any such agreement or exaction, may be recovered by the person paying the same.

with interest; and every person accepting such agreement, causing such obligation to be entered into, or exacting money or other thing, is also liable to the apprentice in the penalty of one hundred dollars, which may be recovered in a civil suit.

#### INDUSTRIAL TRAINING IN THE PUBLIC SCHOOLS.

EDUCATION LAW, CHAPTER 16 OF THE CONSOLIDATED LAWS (AS AMENDED BY L. 1910, CH. 140).

#### ARTICLE 22.

#### General Industrial Schools, Trade Schools, and Schools of Agriculture, Mechanic Arts and Home Making.

Section 600. General industrial schools, trade schools, and schools of agriculture, mechanic arts and home making, may be established in cities.

601. Such schools may be established in union free school districts.

602. Appointment of an advisory board.

603. Authority of the board of education over such schools.

604. State aid for general industrial schools, trade schools, and schools of agriculture, mechanic arts and home making.

605. Application of such moneys.

606. Annual estimate by board of education and appropriations by municipal and school districts.

607. Courses in schools of agriculture for training of teachers.

§ 600. General industrial schools, trade schools and schools of agriculture, mechanic arts and home making, may be established in cities.—The board of education of any city, and in a city not having a board of education the officer having the management and supervision of the public school system, may establish, acquire, conduct and maintain as a part of the public school system of such city the following:

1. General industrial schools open to pupils who have completed the elementary school course or who have attained the age of fourteen years; and;

2. Trade schools open to pupils who have attained the age of sixteen years and have completed either the elementary school course or a course in the above mentioned general industrial school or who have met such other requirements as the local school authorities may have prescribed.

3. Schools of agriculture, mechanic arts and home making, open to pupils who have completed the elementary school course or who have attained the age of fourteen, or who have met such other requirements as the local school authorities may have prescribed.

§ 601. Such schools may be established in union free school districts.—The board of education of any union free school district shall also establish, acquire and maintain such schools for like purposes whenever such schools shall be authorized by a district meeting.

§ 602. Appointment of an advisory board.—1. The board of education in a city and the officer having the management and supervision of the public school system in a city not having a board of education shall appoint an advisory board of five members representing the local trades, industries, and

occupations. In the first instance two of such members shall be appointed for a term of one year and three of such members shall be appointed for a term of two years. Thereafter as the terms of such members shall expire the vacancies caused thereby shall be filled for a full term of two years. Any other vacancy occurring on such board shall be filled by the appointing power named in this section for the remainder of the unexpired term.

2. It shall be the duty of such advisory board to counsel with and advise the board of education or the officer having the management and supervision of the public school system in a city not having a board of education in relation to the powers and duties vested in such board or officer by section six hundred and three of this chapter.

**§ 603. Authority of the board of education over such schools.**—The board of education in a city and the officer having the management and supervision of the public school system in a city not having a board of education and the board of education in a union free school district which authorizes the establishment of a general industrial school, a trade school, or a school of agriculture, mechanic arts and home making, is vested with the same power, and authority over the management, supervision and control of such school and the teachers or instructors employed therein as such board or officer now has over the schools and teachers under their charge. Such boards of education or such officer shall also have full power and authority:

1. To employ competent teachers or instructors.

2. To provide proper courses of study.

3. To purchase or acquire sites and grounds and to purchase, acquire, lease or construct and to repair suitable shops or buildings and to properly equip the same.

4. To purchase necessary machinery, tools, apparatus and supplies.

**§ 604. State aid for general industrial schools, trade schools, and schools of agriculture, mechanic arts and home making.**—1. The commissioner of education in the annual apportionment of the state school moneys shall apportion therefrom to each city and union free school district the sum of five hundred dollars for each independently organized general industrial school, trade school, or a school of agriculture, mechanic arts and home making, maintained therein for thirty-eight weeks during the school year and employing one teacher whose work is devoted exclusively to such school, and having an enrollment of at least twenty-five pupils and maintaining a course of study approved by him.

2. The commissioner of education shall also make an additional apportionment to each city and union free school district of two hundred dollars for each additional teacher employed exclusively in such schools for thirty-eight weeks during the school year.

3. The commissioner of education may, in his discretion apportion to a district or city maintaining such schools or employing such teachers for a shorter time than thirty-eight weeks, an amount pro rata to the time such schools are maintained or such teachers are employed. This section shall not be construed to entitle manual training high schools or other secondary schools maintaining manual training departments, to an apportionment of funds herein provided for.

§ 605. **Application of such moneys.**—All moneys apportioned by the commissioner of education for general industrial or trade schools shall be used exclusively for the support and maintenance of such schools in the city or district to which such moneys are apportioned.

§ 606. **Annual estimate by board of education and appropriations by municipal and school districts.**—1. The board of education of each city or the officer having the management and supervision of the public school system in a city not having a board of education shall file with the common council of such city, within thirty days after the commencement of the fiscal year of such city, a written itemized estimate of the expenditures necessary for the maintenance of its general industrial schools, trade schools, or schools of agriculture, mechanic arts and home making, and the estimated amount which the city will receive from the state school moneys applicable to the support of such schools. The common council shall give a public hearing to such persons as wish to be heard in reference thereto. The common council shall adopt such estimate and, after deducting therefrom the amount of state moneys applicable to the support of such schools, shall include the balance in the annual tax budget of such city. Such amount shall be levied, assessed and raised by tax upon the real and personal property liable to taxation in the city at the time and in the manner that other taxes for school purposes are raised. The common council shall have power by a two-thirds vote to reduce or reject any item included in such estimate.

2. The board of education in a union free school district which maintains a general industrial school, trade school, or a school of agriculture, mechanic arts and home making, shall include in its estimate of expenses pursuant to the provisions of sections three hundred and twenty-three and three hundred and twenty-seven of this chapter the amount that will be required to maintain such schools after applying toward the maintenance thereof the amount apportioned therefor by the commissioner of education. Such amount shall thereafter be levied, assessed and raised by tax upon the taxable property of the district at the time and in the manner that other taxes for school purposes are raised in such district.

§ 607. **Courses in schools of agriculture for training of teachers.**—The state schools of agriculture at Saint Lawrence University, at Alfred University and at Morrisville may give courses for the training of teachers in agriculture, mechanic arts, domestic science or home making, approved by the commissioner of education. Such schools shall be entitled to an apportionment of money as provided in section six hundred and four of this chapter for schools established in union free school districts. Graduates from such approved courses may receive licenses to teach agriculture, mechanic arts and home making in the public schools of the state, subject to such rules and regulations as the commissioner of education may prescribe.

#### INDUSTRIAL AND REFORM SCHOOLS.

##### STATE CHARITIES LAW, CHAPTER 55 OF THE CONSOLIDATED LAWS.

§ 180. **State agricultural and industrial school at Industry; managers.**—The state agricultural and industrial school, at Industry, is hereby continued for the reception of all male children, under the age of sixteen years,

who shall be legally committed to such school. Such school shall be under the control and management of a board of seven managers appointed in accordance with the provisions of section fifty-one of this chapter. [*As am'd by L. 1910, ch. 449.*]

§ 181. **Managers of house of refuge for juvenile delinquents in New York city.**—The society for the reformation of juvenile delinquents in the city of New York shall continue to be a corporation by the name of "The managers of the society for the reformation of juvenile delinquents in the city of New York," with all the powers conferred upon it by its act of incorporation and the acts amendatory thereof, in so far as the same are not inconsistent with the provisions of this chapter. \* \* \* \* \*

§ 184. **Commitment of children.**—Male children under the age of sixteen years may be committed from the rural counties of this state to the state agricultural and industrial school at Industry, or the house of refuge established by the society for the reformation of juvenile delinquents; but such children in the counties of New York and Kings shall be committed to the house of refuge in New York city, established by such society. \* \* \* [*As am'd by L. 1910, ch. 449.*]

**NOTE.**—Chapter 718 of the Laws of 1904, establishing the New York State Training School for Boys, provides for the selection of a rural site near New York City and for the ultimate abandonment of the House of Refuge, section 6 thereof reading as follows:

When such lands shall have been acquired by the state, they shall be known as the New York state training school for boys, and be used by the state for the purpose of caring for and training all juvenile delinquents properly committed thereto by courts of competent jurisdiction in accordance with existing laws authorizing commitments to the house of refuge on Randall's Island.

§ 193. **School ship.**—The managers of the society for the reformation of juvenile delinquents are hereby authorized to establish a school ship for the purpose of instructing the boys in their charge in navigation and the duties of seamanship, and for that purpose they are authorized to purchase and hold any vessel or vessels, and to navigate the same into and upon any of the ports and waters of the state.

§ 199. **New York state training school for girls.**—The New York state training school for girls is hereby continued for the reception of all girls not over the age of sixteen years, who shall be legally committed thereto or placed in charge of such institution. [*As am'd by L. 1910, ch. 449.*]

§ 200. **Appointment of managers.**—Such institution shall be under the control of a board of seven managers, of whom two shall be women and one a physician who has practiced his profession for ten years all to be appointed in accordance with the provisions of section fifty-one of this chapter. [*As am'd by L. 1910, ch. 449.*]

§ 201. **General powers and duties of managers.**—The board of managers shall have the general superintendence, management and control of the institution over which it is appointed; of the grounds and buildings, officers and employees thereof; of the inmates therein, and of all matters relating to the government, discipline, contracts and fiscal concerns thereof, and may make such rules and regulations as may seem to it necessary for carrying out the purposes of such institution. The board of managers of such institution shall appoint from among its members a president, secretary and

treasurer, who shall hold office for such length of time as such board may determine, and a female superintendent, who shall hold office during the pleasure of the board. The board of managers shall fix the compensation of the officers and employees of the institution, subject to the provisions of section seventeen of the state finance law. The managers of such institution shall cause the females detained therein or under their care to be instructed in such branches of useful knowledge, and to be regularly and systematically employed in such lines of industry as shall be suitable to their years and capacities, and shall cause such females to be subjected to such discipline as, in the opinion of such board, is most likely to effect their reformation. The managers of such institution, with the consent of any female committed thereto, may bind out as an apprentice or servant such female during the time they would be entitled to retain her, to such persons and at such places to learn such trade and employment as in their judgment will be for the future benefit and advantage of such female. [*As am'd by L. 1910, ch. 449.*]

§ 210. **Employment of inmates.**—The board of managers of such institution shall determine the kind of employment for females committed thereto and shall provide for their necessary custody and superintendence. The provisions for the safe keeping and employment of such females shall be made for the purpose of teaching such females a useful trade or profession and improving their mental and moral condition. Such board of managers may credit such females with a reasonable compensation for the labor performed by them, and may charge them with the necessary expenses of their maintenance and discipline, not exceeding the sum of two dollars per week. If any balance shall be found to be due such females at the expiration of their terms of commitment, such balance may be paid to them at the time of their discharge: To secure the safe keeping, obedience and good order of the females committed to such institution, the superintendent thereof has the same powers as to such females as keepers of jails and penitentiaries possess as to persons committed to their custody.

#### **FREE LECTURES FOR WORKINGPEOPLE.**

**LAWS OF 1888, CHAPTER 545.**

**AN ACT** to provide for lectures for workingmen and workingwomen [in New York City].

§ 1. The board of education of the city of New York is hereby authorized and empowered to provide for the employment of competent lecturers to deliver lectures on the natural sciences and kindred subjects in the public schools of said city in the evenings for the benefit of workingmen and workingwomen.

§ 2. The said board of education shall have power to purchase the books, stationery, charts and other things necessary and expedient to successfully conduct said lectures which it shall have power to direct.

§ 3. No admission fee shall be charged, and at least one school in each ward of said city or such hall or halls therein, if there is not suitable accommodation in the school buildings for persons attending said lectures, where in the judgment of the said board of education it is practicable or expedient, shall be selected and designated by said board for the purpose

of carrying out the provisions of this act, and one or more lectures, in the discretion of said board, shall be delivered in each school or other building so selected and designated in each week, between the first day of October in each year and the thirty-first day of March in each succeeding year, excepting the two weeks preceding and the week following the first day of January in each year; and such lecture or lectures may be advertised in a newspaper or newspapers published in said city, or otherwise, as the said board of education in its discretion shall determine. The board of estimate and apportionment of the city and county of New York is hereby authorized to appropriate annually sufficient money to carry out the provisions of this act. [As am'd by L. 1889, ch. 383; L. 1890, ch. 305; L. 1891, ch. 71.]



## LICENSING OF TRADES.

[State examination boards grant certificates or licenses to nurses, pharmacists, physicians and other professions, and also to marine engineers; but the regulation of other licensed *trades* is delegated to municipalities. Of the various local laws only those applying to New York City are here reprinted.]

### LICENSING OF ENGINEERS AND PILOTS OF VESSELS.

THE NAVIGATION LAW, CHAPTER 37 OF THE CONSOLIDATED LAWS.

§ 17. *Licenses.*—Every person employed as master, pilot or engineer on board of a steam vessel or a vessel propelled by machinery, carrying passengers for hire or towing for hire, shall be examined by the inspectors as to his qualifications, and if satisfied therewith they shall grant him a license for the term of one year for such boat, boats or class of boats as said inspectors may specify in such license. In a proper case, the license may permit and specify that the master may act as pilot, and in case of small vessels also as engineer and pilot. The license shall be framed under glass, and posted in some conspicuous place on the vessel on which he may act. Whoever acts as master, pilot or engineer, without having first received such license, or upon a boat or class of boats not specified in his license, shall be liable to a penalty of fifty dollars for each day that he so acts, except as in this article otherwise specified, and such license may be revoked by the inspectors for intemperance, incompetency or wilful violation of duty.

§ 34. \* \* Each person licensed shall pay five dollars for each original license and three dollars for each renewal thereof. \* \* [Added by L. 1905, ch. 359.]

For the act regulating the pilotage of the port of New York see Navigation Law, § 56.

### EXAMINATION AND LICENSING OF PLUMBERS IN CITIES.

THE GENERAL CITY LAW, CHAPTER 21 OF THE CONSOLIDATED LAWS.

§ 40. *Examining boards of plumbers in cities.*—The existing boards for the examination of plumbers in cities of this state are continued and each shall hereafter be known as the examining board of plumbers. Such board in each city shall continue to consist of five persons to be appointed by the mayor, of whom two shall be employing or master plumbers of not less than ten years' experience in the business of plumbing, and one shall be a journeyman plumber of like experience, and the other members of such board shall be the chief inspector of plumbing and drainage of the board of health of such city, or officer performing the duties of such inspector, and the chief engineer having charge of sewers in such city, but in the event of there being no such officers in such city, then any two other officers having charge or supervision of the plumbing, drainage or sewerage, whom the mayor shall designate or appoint, or two members of the board of health of such city having like duties or acting in like capacities.

*Constitutionality.*—L. 1892, ch. 602, from which this statute was derived, was held constitutional as a police measure in the interest of the public health. *People ex rel. Nechamcus v. Warden of the City Prison*, 144 N. Y. 529 (1895).

A separate statute (L. 1896, ch. 803) regulates the practice of plumbing in New York City (see below).

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§ 45. **Examinations; conducting business without certificate prohibited.**—A person desiring or intending to conduct the trade, business or calling of a plumber or of plumbing in a city of this state as employing or master plumber, shall be required to submit to an examination before such examining board of plumbers as to his experience and qualifications for such trade, business or calling; and it shall not be lawful in any city of this state for a person to conduct such trade, business or calling, unless he shall have first obtained a certificate of competency from such board of the city in which he conducts or proposes to conduct such business.

§ 46. **Registration, when required.**—Every employing or master plumber carrying on his trade, business or calling in any city of this state shall register his name and address at the office of the board of health of the city in which he shall conduct such business, under such rules as the respective boards of health of each of the cities shall prescribe, and thereupon he shall be entitled to receive a certificate of such registration; provided, however, that such employing or master plumber shall at the time of applying for such registration hold a certificate of competency from an examining board of plumbers.

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§ 57. **Article limited.**—Nothing in this article shall affect or supersede any provision of chapter eight hundred and three of the laws of eighteen hundred and ninety-six, relating to plumbing in the city of New York.

#### LAWS OF 1896, CHAPTER 803.

AN ACT in relation to plumbing in the city of New York.

§ 1. Once in each year, every employing or master plumber carrying on his trade, business or calling in the city of New York, shall register his name and address at the office of the department of buildings in said city under such rules and regulations as said department shall prescribe, and thereupon he shall be entitled to receive a certificate of such registration from said department, provided, however, that such employing or master plumber shall, at the time of applying for such registration, hold a certificate of competency from the examining board of plumbers of said city. The time for making such registration shall be during the month of March in each year. Where, however, a person obtains a certificate of competency at a time other than in the month of March in any year, he may register within thirty days after obtaining such certificate of competency, but he must also register in the month of March in each year as above provided. Such registration may be cancelled by the superintendent of buildings for a violation of the rules and regulations for the plumbing and drainage of such city, duly adopted and in force pursuant to the provisions of this act, or whenever the person so registered ceases to be a master or employing plumber, after a hearing had before said superintendent, and upon a prior notice of not less than ten days, stating the grounds of complaint and served upon the person charged with the violation of the aforesaid rules and regulations. After the passage of this act it shall not be lawful for any person or co-partnership to engage in, or carry on the trade, business or calling of employing or master plumber in the city of New York, unless the name and address of such person and of each and every member of such co-partnership shall have been registered as above provided.

§ 2. In the city of New York it shall be unlawful for any person or persons to expose the sign of "Plumber" or "Plumbing" or a sign containing words of similar import and meaning, unless said person or persons shall have obtained a certificate of competency from the examining board of plumbers of said city and shall have registered as herein provided.

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The statute is unconstitutional in so far as it attempts to subject non-practicing or financial partners in a plumbing firm to examination and registration. *Schnaier v. Navarre Hotel and Importation Co.*, 182 N. Y. 83 (June, 1905).

#### INSPECTION OF STEAM BOILERS AND LICENSING OF STEAM ENGINEERS IN NEW YORK CITY.\*

LAWS OF 1901, CHAPTER 466, BEING THE REVISED CHARTER OF GREATER  
NEW YORK.

§ 342. Steam boilers; inspection of; not to be operated without certificate. — Every owner, agent or lessee of a steam boiler or boilers in use in The City of New York shall annually, and at such convenient times and in such manner and in such form as may by rules and regulations to be made therefor by the police commissioner be provided, report to the said department the location of each steam boiler or boilers, and thereupon, and as soon thereafter as practicable, the sanitary company or such member or members thereof as may be competent for the duty herein described, and may be detailed for such duty by the police commissioner shall proceed to inspect such steam boilers, and all apparatus and appliances connected therewith; but no person shall be detailed for such duty except he be a practical engineer, and the strength and security of each boiler shall be tested by atmospheric and hydrostatic pressure and the strength and security of each boiler or boilers so tested shall have, under the control of said sanitary company, such attachments, apparatus and appliances as may be necessary for the limitation of pressure, locked and secured in like manner as may be from time to time adopted by the United States inspectors of steam boilers or the secretary of the treasury, according to act of Congress, passed July twenty-fifth, eighteen hundred and sixty-six; and they shall limit the pressure of steam to be applied to or upon such boiler, certifying each inspection and such limit of pressure to the owner of the boiler inspected, and also to the engineer in charge of same, and no greater amount of steam or pressure than that certified in the case of any boiler shall be applied thereto. In limiting the amount of pressure, wherever the boiler under test will bear the same, the limit desired by the owner of the boiler shall be the one certified. Every owner, agent or lessee of a steam boiler or boilers in use in The City of New York shall, for the inspection and testing of such or each of such boilers, as provided for in this act, and upon receiving from the police department a certificate setting forth the location of the boiler inspected, the date of such inspection, the persons by whom the inspection was made, and the limit of steam pressure which shall be applied to or upon such boiler or each of such

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\* For statute regulating examination of stationary engineers in Buffalo, see the charter (L. 1891, ch. 105, as am'd by L. 1899, ch. 557). As to general responsibility of persons in charge of steam boilers, see §§ 1052, 1893 of the Penal Law, given in part, under "Criminal liability for negligence," under DUTIES AND LIABILITIES OF EMPLOYERS AND EMPLOYEES, *ante*.

boilers pay annually to the police commissioner for each boiler, for the use of the police pension fund, the sum of two dollars, such certificate to continue in force for one year from the granting thereof when it shall expire, unless sooner revoked or suspended. Such certificate may be renewed upon the payment of a like sum and like conditions, to be applied to a like purpose. It shall not be lawful for any person or persons, corporation or corporations, to have used or operated within The City of New York any steam boiler or boilers except for heating purposes and for railway locomotives, without having first had such boiler or boilers inspected or tested and procured for such boiler or each of such boilers so used or operated the certificate herein provided for. The superintendent and inspectors of boilers, in the employ of the police department, in the city of Brooklyn, and the boiler inspectors in Long Island City, shall continue to discharge the duties heretofore devolved upon them, subject, however, to removal for cause, or when they are no longer needed.

§ 343. No person to use, or act as engineer for, without certificate.—It shall not be lawful for any person or persons to operate or use any steam boiler to generate steam except for railway locomotive engines, and for heating purposes in private dwellings, and boilers carrying not over ten pounds of steam and not over ten horse-power, or to act as engineer for such purposes in The City of New York without having a certificate of qualification therefor from practical engineers detailed as such by the police department, such certificate to be countersigned by the officer in command of the sanitary company of the police department of The City of New York and to continue in force one year, unless sooner revoked or suspended. Such certificate may be revoked or suspended at any time by the police commissioner upon the report of any two practical engineers, detailed as provided in this section, stating the grounds upon which such certificate should be revoked or suspended. Where such certificate shall have been revoked, as provided in this section, a like certificate shall not in any case be issued to the same person within six months from the date of the revocation of the former certificate held by such person.

LAWS OF 1897, CHAPTER 635, AMENDING SECTION 312 OF THE NEW YORK CITY CONSOLIDATION ACT (LAWS OF 1882, CHAPTER 410).

AN ACT to amend chapter four hundred and ten of the laws of eighteen hundred and eighty-two, entitled "An act to consolidate into one act and to declare the special and local laws affecting public interests in the city of New York," relative to engineers.

Section 1. Section three hundred and twelve of chapter four hundred and ten of the laws of eighteen hundred and eighty-two is hereby amended so as to read as follows:

§ 312. The board of police shall preserve in proper form a correct record of all inspections of steam boilers made under its direction, and of the amount of steam or pressure allowed in each case, and in cases where any steam boiler or the apparatus or appliances connected therewith shall be deemed by the board, after inspection, to be insecure or dangerous, the board shall prescribe such changes and alterations as may render such boilers, apparatus and appliances secure and devoid of danger. And in the meantime,

and until such changes and alterations are made, and such appliances attached, such boiler, apparatus and appliances may be taken under the control of the board of police, and all persons prevented from using the same, and in cases deemed necessary, the appliances, apparatus, or attachments for the limitation of pressure may be taken under the control of the said board of police. And no owner, or agent of such owner, or lessee of any steam boiler to generate steam, shall employ any person as engineer or to operate such boiler unless such person shall first obtain a certificate as to qualification therefor from a board of practical engineers detailed as such by the police department, such certificate to be countersigned by the officer in command of the sanitary company of the police department of the city of New York. In order to be qualified to be examined for and to receive such certificate of qualification as an engineer, a person must comply, to the satisfaction of said board, with the following requirements:

1. He must be a citizen of the United States and over twenty-one years of age.

2. He must, on his first application for examination, fill out, in his own handwriting, a blank application to be prepared and supplied by the said board of examiners, and which shall contain the name, age, and place of residence of the applicant, the place or places where employed and the nature of his employment for five years prior to the date of his application, and a statement that he is a citizen of the United States. The application shall be verified by him, and shall, after the verification, contain a certificate signed by three engineers, employed in New York city, and registered on the books of said board of examiners as engineers working at their trade, certifying that the statements contained in such application are true. Such application shall be filed with said board.

3. The following persons, who have first complied with the provisions of subdivisions one and two of this section, and no other persons may make application to be examined for a license to act as engineer.

a. Any person who has been employed as a fireman, as an oiler, or as a general assistant under the instructions of a licensed engineer in any building or buildings in the city of New York, for a period of not less than five years.

b. Any person who has served as a fireman, oiler or general assistant to the engineer on any steamship or steamboat, for a period of five years, and shall have been employed for two years under a licensed engineer in a building in the city of New York, or any person who has served as a marine or locomotive engineer or fireman to a locomotive engineer for a period of five years and shall have been a resident of the state of New York for a period of two years. [*As am'd by L. 1900, ch. 461.*]

c. Any person who has learned the trade of machinist, or boiler maker or steamfitter and worked at such trade for three years exclusive of time served as apprentice, or while learning such trade, and also any person who has graduated as a mechanical engineer from a duly established school of technology, after such person has had two years' experience in the engineering department in any building or buildings in charge of a licensed engineer in the city of New York.

d. Any person who holds a certificate as engineer issued to him by any duly qualified board of examining engineers existing pursuant to law in any

state or territory of the United States and who shall file with his application a copy of such certificate and an affidavit that he is the identical person to whom said certificate was issued. If the board of examiners of engineers shall determine that the applicant has complied with the requirements of this section he shall be examined as to his qualifications to take charge of, and operate steam boilers and steam engines in the city of New York, and if found qualified said board shall issue to him a certificate of the third class. After the applicant has worked for a period of two years under his certificate of the third class, he may be again examined by said board for a certificate of the second class and if found worthy the said board may issue to him such certificate of the second class, and after he has worked for a period of one year under said certificate of the second class he may be examined for a certificate of the first class; and when it shall be made to appear to the satisfaction of said board of examiners that the applicant for either of said grades lacks mechanical skill, is a person of bad habits or is addicted to the use of intoxicating beverages he shall not be entitled to receive such grade of license and shall not be re-examined for the same until after the expiration of one year. Every owner or lessee, or the agent of the owner or lessee, of any steam boiler, steam generator, or steam engine aforesaid, and every person acting for such owner or agent is hereby forbidden to delegate or transfer to any person or persons other than the licensed engineer the responsibility and liability of keeping and maintaining in good order and condition any such steam boiler, steam generator or steam engine, nor shall any such owner, lessee or agent, enter into a contract for the operation or management of a steam boiler, steam generator or steam engine, whereby said owner, lessee or agent shall be relieved of the responsibility or liability for injury which may be caused to person or property by such steam boiler, steam generator or steam engine. Every engineer holding a certificate of qualification from said board of examiners shall be responsible to the owner, lessee, or agent employing him for the good care, repair, good order and management of the steam boiler, steam generator or steam engine in charge of, or run or operated by such engineer.

e. Any person or persons violating any provision of this section or of any of its subdivisions shall be guilty of a misdemeanor. [Added by L. 1900, ch. 709.]

#### LICENSING OF STATIONARY FIREMEN IN NEW YORK CITY.

##### LAWS OF 1901, CHAPTER 733.

AN ACT to provide for the licensing of firemen operating steam stationary boiler or boilers in the city of New York.

Section 1. It shall be unlawful for any fireman or firemen to operate steam stationary boiler or boilers in the city of New York, unless the fireman or firemen so operating such boiler or boilers are duly licensed as hereinafter provided. Such fireman or firemen to be under the supervision and direction of a duly licensed engineer or engineers.

§ 2. Should any boiler or boilers be found at any time operated by any person who is not a duly licensed fireman or engineer as provided by this act, the owner or lessee thereof shall be notified, and if after one week from such notification the same boiler or boilers is again found to be operated by a person or persons not duly licensed under this act, it shall be deemed prima facie evidence of a violation of this act.

§ 3. Any person desiring to act as a fireman shall make application for a license to so act, to the steam boiler bureau of the police department as now exists for licensing engineers, who shall furnish to each applicant blank forms of application, which application when filled out, shall be signed by a licensed engineer engaged in working as an engineer in the city of New York, who shall therein certify that the applicant is of good character, and has been employed as oiler, coalpasser or general assistant under the instructions of a licensed engineer on a building or buildings in the city of New York, or on any steamboat, steamship or locomotive for a period of not less than two years. The applicant shall be given a practical examination by the board of examiners detailed as such by the police commissioner and if found competent as to his ability to operate a steam boiler or boilers as specified in section one of this act shall receive within six days after such examination a license as provided by this act. Such license may be revoked or suspended at any time by the police commissioner upon the proof of deficiency. Every license issued under this act shall continue in force for one year from the date of issue unless sooner revoked as above provided. Every license issued under this act unless revoked as herein provided shall at the end of one year from date of issue thereof, be renewed by the board of examiners upon application and without further examination. Every application for renewal of license must be made within thirty days of the expiration of such license. With every license granted under this act there shall be issued to every person obtaining such license a certificate, certified by the officers in charge of the boiler inspection bureau. Such certificate shall be placed in the boiler room of the plant operated by the holder of such license, so as to be easily read.

§ 4. No person shall be eligible to procure a license under this act unless the said person be a citizen of the United States.

§ 5. All persons operating boilers in use upon locomotives or in government buildings, and those used for heating purposes carrying a pressure not exceeding ten pounds to the square inch, shall be exempt from the provisions of this act. Such license will not permit any person other than a duly licensed engineer to take charge of any boiler or boilers in the city of New York.

§ 6. This act shall take effect immediately.

#### LICENSING OF MOVING-PICTURE MACHINE OPERATORS.

LAWS OF 1901, CHAPTER 466, BEING THE REVISED CHARTER OF GREATER NEW YORK.

§ 529-a. No person to operate moving picture apparatus and its connections without a license.—It shall not be lawful for any person or persons to operate any moving picture apparatus and its connections in the city of New York unless such person or persons so operating such apparatus is duly licensed as hereinafter provided. Any person desiring to act as such operator shall make application for a license to so act to the commissioner of water supply, gas and electricity of the city of New York who shall furnish to each applicant blank forms of application which the applicant shall fill out.

The commissioner of water supply, gas and electricity shall make rules and regulations governing the examination of applicants and the issuance of licenses and certificates.

The applicant shall be given a practical examination under the direction of the commissioner of water supply, gas and electricity and if found competent as to his ability to operate moving picture apparatus and its connections shall receive within six days after such examination a license as herein provided. Such license may be revoked or suspended at any time by the commissioner of water supply, gas and electricity. Every license shall continue in force for one year from the date of issue unless sooner revoked or suspended. Every license, unless revoked or suspended, as herein provided, may at the end of one year from the date of issue thereof be renewed by the commissioner of water supply, gas and electricity in his discretion upon application and with or without further examination as said commissioner may direct. Every application for renewal of license must be made within the thirty days previous to the expiration of such license. With every license granted there shall be issued to every person obtaining such license a certificate, made by the commissioner of water supply, gas and electricity or such other officer as such commissioner may designate, certifying that the person named therein is duly authorized to operate moving picture apparatus and its connections. Such certificate shall be displayed in a conspicuous place in the room where the person to whom it is issued operates moving picture apparatus and its connections. No person shall be eligible to procure a license unless he shall be a citizen of the United States and of full age. Any person offending against the provisions of this section, as well as any person who employs or permits a person not licensed as herein provided to operate moving picture apparatus and its connections, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine not exceeding the sum of one hundred dollars or imprisonment for a period not exceeding three months, or both, in the discretion of the court. [Added by L. 1910, ch. 654.]



## TRADE UNIONS.

[No special provision is made by the statutes of New York for incorporation of trade unions as business organizations. An association of workmen for the purpose of undertaking co-operative insurance may incorporate under the Insurance Law; but nothing in this law or any of the laws relating to stock corporations provides for the actual business of trade unions in contracting with employers as the agents of the employees. This primary object of trade unions finds no recognition, of course, in the non-stock corporation laws; although the unions that have incorporated in New York have done so under the Membership Corporations Law, which applies to benevolent, charitable, scientific and missionary societies.]

Trade unions do not in fact find incorporation necessary in order to obtain legal standing in the courts, since the law of this State has provided since 1851 that an unincorporated association consisting of seven or more persons may sue and be sued in the name of its president and treasurer (§§ 1919-1921 of the Code of Civil Procedure, as below).

Disobedience of an injunction addressed to an unincorporated association and "its each and every member" constitutes a criminal contempt even if the violators were not personally served with the order: *People ex rel. Stearns v. Marr*, 181 N. Y. 403 (1905).

As to union labels, see §§ 15 and 16 of the Labor Law, *ante*.]

### ACTION BY OR AGAINST AN UNINCORPORATED ASSOCIATION.

CODE OF CIVIL PROCEDURE, ARTICLE I OF TITLE V OF CHAPTER XV.

§ 1919. An action or special proceeding may be maintained, by the president or treasurer of an unincorporated association, consisting of seven or more persons, to recover any property, or upon any cause of action, for or upon which all the associates may maintain such an action or special proceeding, by reason of their interest or ownership therein, either jointly or in common. An action may likewise be maintained by such president or treasurer to recover from one or more members of such association his or their proportionate share of any moneys lawfully expended by such association for the benefit of such associates, or to enforce any lawful claim of such association against such member or members. An action or special proceeding may be maintained, against the president or treasurer of such an association, to recover any property, or upon any cause of action, for or upon which the plaintiff may maintain such an action or special proceeding, against all the associates, by reason of their interest or ownership, or claim of ownership therein, either jointly or in common, or their liability therefor, either jointly or severally. Any partnership, or other company of persons, which has a president or treasurer, is deemed an association within the meaning of this section.

The action, though in form against such officer, is in substance and reality against the association (*Mason v. Holmes*, 30 Misc. 719).

§ 1921. In such an action the officer against whom it is brought cannot be arrested; and a judgment against him does not authorize an execution to be issued against his property, or his person; nor does the docketing thereof bind his real property, or chattels real. Where such a judgment is for a sum of money, an execution issued thereupon must require the sheriff to satisfy the same, out of any personal or real property belonging to the association, or owned, jointly or in common, by all the members thereof. [*As am'd by L. 1898, ch. 293.*]

An action for damages held to lie against an unincorporated trade union, *Curran v. Galen*, 152 N. Y. 33 (1897); see also *Connell v. Stalker*, 20 Misc. 423 (1897); *Coons v. Chrystie*, 24 Misc. 296 (1898); *Matthews v. Shankland*, 25 Misc. 604 (1898); *Beattie v. Callanan*, 67 App. Div. 14 (1901).

**AUTHORIZING THE INCORPORATION OF LABOR ORGANIZATIONS FOR BENEVOLENT PURPOSES.**

**THE MEMBERSHIP CORPORATIONS LAW, CHAPTER 35 OF THE CONSOLIDATED LAWS.**

§ 40. Purposes for which corporations may be formed under this article.— A membership corporation may be created under this article for any lawful purpose, except a purpose for which a corporation may be created under any other article of this chapter, or any other general law than this chapter.

*Reviser's Note.*—"This section is intended to make one complete general statement, including every object for which membership corporations ought to be permitted under a general law, instead of a long enumeration of particular purposes, requiring new legislation whenever incorporation is desired for a new purpose. The definition of a membership corporation in section 2 will prevent the formation of a stock corporation or of a mutual benefit insurance corporation under this article. See *Matter of Lampson*, 35 App. Div. 49, *affd.* in 161 N. Y. 511; *People v. Johnson*, 22 Misc. 150."

§ 41. Certificates of incorporation.— Five or more persons may become a membership corporation for any one of the purposes for which a corporation may be formed under this article or for any two or more of such purposes of a kindred nature, by making, acknowledging and filing a certificate, stating the particular objects for which the corporation is to be formed, each of which must be such as is authorized by this article; the name of the proposed corporation; the territory in which its operations are to be principally conducted; the town, village or city in which its principal office is to be located, if it be then practicable to fix such location; the number of its directors, not less than three nor more than thirty; and the names and places of residence of the persons to be its directors until its first annual meeting. Such certificate shall not be filed without the written approval, indorsed thereupon or annexed thereto, of a justice of the supreme court. \* \* \* On filing such certificate, in pursuance of law, the signers thereof, their associates and successors, shall be a corporation in accordance with the provisions of such certificate. \* \* \*

**AUTHORIZING LABOR ORGANIZATIONS TO MAINTAIN OR CONSTRUCT BUILDINGS, HALLS OR LIBRARIES FOR THEIR USE.**

**THE BENEVOLENT ORDERS LAW, CHAPTER 3 OF THE CONSOLIDATED LAWS.**

§ 7. Joint corporations.— \* \* \* any number of trades unions, trades assemblies, trades associations or labor organizations, \* \* \* may unite in forming a corporation for the purpose of acquiring, constructing, maintaining and managing a hall, temple or other building, or a home for the aged and indigent members of such order and their dependent widows and orphans, and of creating, collecting and maintaining a library for the use of the bodies uniting to form such corporation. Each body hereafter uniting to form such corporation shall annually at a regular meeting thereof, held in accordance with its constitution and general rules and regulations or by-laws, elect a member thereof to represent it in such corporation. \* \* \* The trustees so elected shall make, acknowledge and file with the secretary of state, a certificate stating the name of the corporation to be formed, its purposes and objects, the names and places of residence of the trustees, the names of the bodies which they respectively represent, the names of the bodies uniting to form the corporation and their location, and the name of the town, village

or city and the county where such building is, or is to be located; and thereupon the several bodies so uniting shall be a corporation for the purposes specified in such certificate.

§ 9. Powers of joint corporations.—Such corporation may acquire real property in the town, village or city in which such hall, home, temple or building is or is to be located, and erect such building or buildings thereupon for the uses and purposes of the corporation, as the trustees may deem necessary, or repair, rebuild or reconstruct any building or buildings that may be thereupon and furnish and complete such rooms therein as may appear necessary for the use of such bodies or for any other purpose for which the corporation is formed; and may rent to other persons any room in such building or any portion of such real property. Until such real property shall be acquired or such building erected or made ready for use, the corporation may rent and sublet such rooms or apartments in such town, village or city as may be suitable or convenient for the use of the bodies mentioned in such certificate, or of such other bodies as may desire to use them, and the board of trustees may determine the terms and conditions on which rooms and apartments in such building or buildings, when erected, or which may be leased, shall be used and occupied. Before such corporation composed of not more than thirty bodies shall purchase or sell any real property, or erect or repair any building or buildings thereupon, and before it shall purchase any building or part of a building for the use of a corporation, it shall submit to the bodies constituting the corporation, the proposition to make such sale or purchase, or to erect or repair any such building or buildings, or to rent any building or part thereof, for the use of the corporation; and unless such proposition receives the approval of two-thirds of the bodies constituting the corporation, such proposition shall not be carried into effect. The evidence of the approval of such proposition by any such body shall be a certificate to that effect signed by the presiding officer and secretary of the body, or the officers discharging duties corresponding to those of the presiding officer and secretary, under the seal of such body. But where land is purchased for the purpose of erecting a hall, home or temple thereon the buildings upon such land at the time of such purchase, may be sold by the trustees without such consent. The powers of the board of trustees of every corporation created hereunder and composed of more than thirty bodies, respecting sales, purchases and repairs, shall be fixed by the by-laws adopted by the representatives of the various bodies composing such corporation, or shall be determined by such representatives when assembled in annual session. Every corporation created hereunder shall have power to enforce, at law or in equity, any legal contract which it may make with any of the bodies composing it respecting the care and maintenance of members or other dependents of such body, the same as if such body or bodies were not members of the corporation. Any corporation created hereunder shall have power to take and hold real and personal estate by purchase, gift, devise or bequest subject to the provisions of law relating to devises and bequests by last will and testament or otherwise.

**FORBIDDING LABOR ORGANIZATIONS TO DISCRIMINATE AGAINST MEMBERS  
OF THE NATIONAL GUARD.**

**PENAL LAW, CHAPTER 40 OF THE CONSOLIDATED LAWS.**

§ 481. Discrimination against members of the national guard.—No association or corporation, constituted or organized for the purpose of promoting the success of the trade, employment, or business of the members thereof, shall by any constitution, rule, by-law, resolution, vote, or regulation, discriminate against any member of the national guard of the state of New York, because of such membership in respect of the eligibility of such member of the said national guard to membership in such association or corporation, or in respect of his right to retain said last mentioned membership; it being the purpose of this section and the section immediately preceding to protect a member of the said national guard from disadvantage in his means of livelihood and liberty therein but not to give him any preference or advantage on account of his membership of said national guard. A person who aids in enforcing any such provisions against a member of the said national guard with the intent to discriminate against him because of such membership, is guilty of a misdemeanor.

**PREVENTING FRAUDULENT REPRESENTATION IN LABOR ORGANIZATIONS.**

**PENAL LAW, CHAPTER 40 OF THE CONSOLIDATED LAWS.**

§ 1278. Fraudulent representation in labor organizations.—Any person who represents himself or herself to be a member of, or who claims to represent a labor organization which does not exist within the state, at the time of such representation, or who has in his or her possession a credential, certificate or letter of introduction bearing a fraudulent seal, or bearing the seal of a labor organization which has ceased to exist, and does not exist at the time of such representation, and attempts to gain admission by the use of said credential, certificate or letter of introduction, as a member of any convention, or meeting of representatives of labor organizations of the state, shall be guilty of a misdemeanor and upon conviction thereof shall be punishable by a fine of not less than twenty dollars nor more than fifty dollars, and imprisonment for not less than ten days nor more than thirty days in the jail of the county wherein such conviction is had, or by both such fine and imprisonment.

**UNAUTHORIZED USE OF BADGES, TITLES, ETC.**

**PENAL LAW, CHAPTER 40 OF THE CONSOLIDATED LAWS.**

§ 2240. Unauthorized wearing or use of badge, name, title of officers, insignia, ritual or ceremony of certain orders and societies.—1. Any person who wilfully wears the badge or the button of the Grand Army of the Republic, the insignia, badge or rosette of the Military Order of the Loyal Legion of the United States, or the Military Order of Foreign Wars of the United States, or the badge or button of the Spanish war veterans, or the Order of Patrons of Husbandry, or the Benevolent and Protective Order of Elks of the United States of America, or of any society, order or organization, of ten years' standing in the state of New York, or uses the same to obtain

aid or assistance within this state, or wilfully uses the name of such society, order or organization, the titles of its officers, or its insignia, ritual or ceremonies, unless entitled to use or wear the same under the constitution and by-laws, rules and regulations of such order or of such society, order or organization, is guilty of a misdemeanor.

**UNLAWFUL TO COMPEL EMPLOYEES TO AGREE NOT TO JOIN LABOR ORGANIZATIONS.**

**PENAL LAW, CHAPTER 40 OF THE CONSOLIDATED LAWS.**

§ 531. **Coercion by employers.**—Any person or employer of labor, and any person of any corporation on behalf of such corporation, who shall hereafter coerce or compel any person, employee, laborer or mechanic, to enter into an agreement, either written or verbal, from such person, employee, laborer or mechanic, not to join or become a member of any labor organization, as a condition of such person securing employment, or continuing in the employment of any such person, employer or corporation, shall be deemed guilty of a misdemeanor. The penalty for such misdemeanor shall be imprisonment in a penal institution for not more than six months, or by a fine of not more than two hundred dollars, or by both such fine and imprisonment.

This statute imposes an unauthorized restraint upon the freedom to contract in relation to the purchase and sale of labor, and is unconstitutional: *People v. Marcus*, 185 N. Y. 257 (1906).

**UNLAWFUL TO BRIBE REPRESENTATIVES OF LABOR ORGANIZATIONS.**

**PENAL LAW, CHAPTER 40 OF THE CONSOLIDATED LAWS.**

§ 380. **Bribery of labor representatives.**—A person who gives or offers to give any money or other things of value to any duly appointed representative of a labor organization with intent to influence him in respect to any of his acts, decisions, or other duties as such representative, or to induce him to prevent or cause a strike by the employees of any person or corporation, is guilty of a misdemeanor; and no person shall be excused from attending and testifying, or producing any books, papers or other documents before any court or magistrate, upon any investigation, proceeding or trial, for a violation of this section, upon the ground or for the reason that the testimony or evidence, documentary or otherwise, required of him may tend to convict him of a crime or subject him to a penalty or forfeiture; but no person shall be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter or thing concerning which he may so testify or produce evidence, documentary or otherwise, and no testimony so given or produced shall be received against him upon any criminal investigation or proceeding.

*Cf.* "Corrupt influencing of employees," (Penal Law, § 439), under DUTIES AND LIABILITIES OF EMPLOYERS AND EMPLOYEES, *ante*.

## INDUSTRIAL DISPUTES.

[The "right to strike," i. e., to quit work in concert, is controlled by the statutes and judicial decisions respecting combinations. Sections 580 and 582 of the Penal Law define conspiracies, or unlawful combinations. The latter section expressly legalizes a combination (strike) for the purpose of maintaining or advancing the rate of wages, and the courts have broadened this authorization to include any peaceable and orderly strike of wage workers, *not to harm others but to improve their own condition*, within which lawful purpose may be a strike by a trade union to procure the discharge of an outsider and the employment of its own members: *Nat'l Protective Assn. v. Cumming*, 170 N. Y. 315; *Wunch v. Shankland*, 179 N. Y. 545, *Mem.* But concerning strikes for the "closed shop," see that topic below. Similarly, a lockout is legal if no malice is shown (*City Trust, Safe Deposit & Surety Co. v. Waldhauer*, 47 Misc. 7).

**INTIMIDATION.**—A strike that has a lawful purpose becomes unlawful if conducted by unlawful means. Thus it is contrary to law to use or threaten to use violence, force or intimidation in the prosecution of a strike (§ 530 of the Penal Law, defining coercion); or to endanger life by refusal to labor (§ 1910); or interfere with passengers in public conveyances (§ 720), etc.

Violation of an injunction order against illegal interference with new employees on the part of strikers constitutes criminal contempt and is punishable as such even though the individual members of the union were not personally served with the order: *People ex rel. Stearns v. Marr*, 181 N. Y. 463 (1905).

**PICKETING** is not defined by statute, but by the interpretation placed by the courts on the above-mentioned laws relating to coercion. One of the most authoritative discussions of "picketing" by Federal courts is in *Union Pacific Ry. Co. v. Ruef* (120 Fed. Rep. 102), and by the New York courts in a unanimous decision of the Second Appellate Division, December, 1904, which is, in part, as follows:

"'Picketing' may simply mean the stationing of men for observation. If in the doing of this act, solely for such purpose, there be no molestation or physical annoyance, or let or hindrance of any person then it can not be said that such an act is, *per se*, unlawful. But 'picketing' may also mean the stationing of a man or men to coerce or to threaten, or to intimidate or to halt or to turn aside against their will those who would go to and from the picketed place to do business, or to work, or to seek work therein, or in some other way to hamper, hinder, or harass the free dispatch of business by the employer. In that case, picketing may well be said to be unlawful. \* \* \* I may add that I am not prepared to say that all picketing which goes no further than 'persuasion and entreaty' of those who are about to work or to seek work or to do business in the picketed place is absolutely lawful. A wayfarer upon the public street should be free for peaceful travel. No man against my will has the legal right to occupy the public street to arrest my course or to join me on my way, be he ever so polite or gentle in his insistence. There may be no intimidation, and yet an interruption of peaceful travel. There may be annoyance without danger."—*Mills v. U. S. Printing Co.*, 99 App. Div. 605.

**BOYCOTTING.**—The ruling of the Court of Appeals in the *Cumming* case, cited above, modified the law regarding boycotts, so that the courts do not find in a boycott *per se* the malicious purpose, or an attempt to injure, that constitutes conspiracy (*Foster v. Retail Clerks' Protective Association*, 39 Misc. 48 [1902]; *Butterick Pub. Co. v. Typographical Union No. 6*, 50 Misc. 1 [1906]). The injury inflicted may be only an incident of the act whereby the ultimate end is gained (*Mills v. U. S. Print. Co.*, 99 App. Div. 605). In this case the court unanimously indorsed Bouvier's statement, "A boycott is not unlawful unless attended with some act which in itself is illegal," and continued: "I think that the verb 'to boycott' does not necessarily signify that the doers employ violence, intimidation or other unlawful coercive means, but that it may be correctly used in the sense of the act of a combination in refusing to have business dealings with another until he removes or ameliorates conditions which are deemed inimical to the welfare of the members of the combination, or some of them, or grants concessions which are deemed to make for that purpose. And as such a combination may be

formed and held together by argument, persuasion, entreaty or by the 'touch of nature,' and may accomplish its purpose without violence or other unlawful means, i. e., simply by abatement, I think it cannot be said that 'to boycott' is to offend the law." In agreement with this view, see the opinion of the Supreme Court of Missouri (1901). In *Marx & Hass Jeans Clothing Co. v. Watson* (67 S. W. Rep. 391). On the other hand, the earlier rule is maintained in the cases of *Davis Machine Co. v. Robinson* (41 Misc. 329) and *People v. McFarlin* (43 Misc. 599). A boycott which affects inter-state commerce is illegal under the Federal anti-trust law: *Loewe v. Lawlor*, 208 U. S. 274 (the hatters' case).

**BLACKLISTING.**—The blacklist is in principle a form of the boycott, but is carried on in such secrecy that it has seldom come before the courts.

**THE "CLOSED SHOP."**—It has been held that an agreement providing for the closed shop (i. e., exclusive employment of members of a trade union) is not in violation of law and will be enforced by the courts: *Jacobs v. Cohen*, 183 N. Y. 207 (1905); *Nat'l Fire Proofing Co. v. Mason Builders' Assn.*, 145 Fed. Rep. 260, (June, 1906). But no agreement whatever makes it lawful for members of a union to coerce or maliciously interfere with non-union men (*Curran v. Galen*, 52 N. Y. 33, decided in 1897 and reaffirmed in *Jacobs* case just cited. Cf. also *Beattie v. Callanan*, 82 App. Div. 7). Further, a strike for a closed shop throughout an entire trade in a locality has been held illegal as constituting conspiracy to deprive men of the exercise of the right to work (*Schwartz v. Int'l Ladies' Garment Workers' Union*, 68 Misc. 528). Similarly a requirement by employers generally in a community that employees must be members of a particular union is illegal (*McCord v. Thompson-Starrett Co.*, 129 App. Div. 130, aff'd in 198 N. Y. 587). A strike to prevent use by a union firm of materials manufactured by a non-union firm has been held illegal (*Irving v. Joint District Council*, 180 Fed. Rep. 896); also a strike to prevent manufacture of goods for a non-union firm (*Schlang v. Ladies' Waist Makers' Union*, 67 Misc. 222); both these being regarded as unlawful interference with an employer's freedom. An agreement binding workmen to work only for members of an employers' association has been held illegal (*People v. Miller in Magistrate's Court*, New York City, August 20, 1904).

### CONSPIRACY, INTIMIDATION, EXTORTION, ETC.

#### PENAL LAW, CHAPTER 40 OF THE CONSOLIDATED LAWS.

§ 580. Definition and punishment of conspiracy.—If two or more persons conspire:

1. To commit a crime; or
5. To prevent another from exercising a lawful trade or calling, or doing any other lawful act, by force, threats, intimidation, or by interfering or threatening to interfere with tools, implements or property belonging to or used by another, or with the use or employment thereof; or
6. To commit any act injurious to the public health, to public morals, or to trade or commerce, or for the perversion or obstruction of justice, or of the due administration of the laws;

Each of them is guilty of a misdemeanor.

§ 581. Conspiracies against peace of the state.—If two or more persons, being out of this state, conspire to commit any act against the peace of this state, the commission or attempted commission of which, within this state, would be treason against the state, they are punishable by imprisonment in a state prison not exceeding ten years.

§ 582. Punishable conspiracies.—No conspiracy is punishable criminally unless it is one of those enumerated in the last two sections, and the orderly and peaceable assembling or co-operation of persons employed in any calling, trade or handicraft for the purpose of obtaining an advance in the rate of wages or compensation, or of maintaining such rate, is not a conspiracy.

§ 1910. **Endangering life by refusal to labor.**—A person who wilfully and maliciously, either alone or in combination with others, breaks a contract of service or hiring, knowing, or having reasonable cause to believe, that the probable consequence of his so doing will be to endanger human life, or to cause grievous bodily injury, or to expose valuable property to destruction or serious injury, is guilty of a misdemeanor.

§ 1480. **Depriving members of national guard of employment.**—A person who, either by himself or with another, wilfully deprives a member of the national guard of his employment, or prevents his being employed by himself or another, or obstructs or annoys said member of said national guard, or his employer, in respect of his trade, business, or employment, because said member of said national guard is such member, or dissuades any person from enlistment in the said national guard by threat of injury to him in case he shall so enlist, in respect of his employment, trade, or business, is guilty of a misdemeanor.

§ 530. **Coercing another person a misdemeanor.**—A person, who with a view to compel another person to do or to abstain from doing an act which such other has a legal right to do or to abstain from doing, wrongfully and unlawfully,

1. Uses violence or inflicts injury upon such other person or his family, or a member thereof, or upon his property, or threatens such violence or injury; or

2. Deprives any such person of any tool, implement, or clothing, or hinders him in the use thereof; or

3. Uses or attempts the intimidation of such person by threats or force;  
Is guilty of a misdemeanor.

One who advises or induces another to commit assault or attempt other intimidation is also guilty of violating this prohibition, thus:

§ 2. *Definition of principal.*—A person concerned in the commission of a crime, whether he directly commits the act constituting the offense or aids and abets in its commission, and whether present or absent, and a person who directly or indirectly counsels, commands, induces or procures another to commit a crime, is a principal.

§ 850. **Extortion defined.**—Extortion is the obtaining of property from another, with his consent, induced by a wrongful use of force or fear, or under cover of official right.

§ 851. **What threats may constitute extortion.**—Fear, such as will constitute extortion, may be induced by a threat:

1. To do an unlawful injury to the person or property of the individual threatened, or to any relative of his or to any member of his family; or

2. To accuse him, or any relative of his or any member of his family, of any crime; or

3. To expose, or impute to him, or any of them, any deformity or disgrace; or

4. To expose any secret affecting him or any of them.

§ 852. **Punishment of extortion.**—A person who extorts any money or other property from another, under circumstances not amounting to robbery, by means of force or a threat mentioned in the last two sections, is punishable by imprisonment not exceeding fifteen years.

Obtaining money by threats or by the continuance of a boycott as described constitutes the crime of extortion under the above sections. Those present and abetting when the money is paid or uniting in the acts that lead to the payment or the



agreement to pay, though not present when the money is received, are each liable as principals. Whether the money is shared personally or placed in a fund to pay the expenses of the boycott is of no consequence as affecting the crime. *People v. Wilzig*, N. Y. Cr. 403 (1886). A labor leader was convicted of extortion for having accepted a sum of money from an employer to pay for "waiting time," as alleged, of the striking employees. *People v. Barondess*, 41 N. Y. 659 (1891). Defendant, the head of a labor organization, was properly charged with extortion when evidence showed that he had demanded and received money as the price of abandoning a boycott undertaken to coerce plaintiffs into obedience to his commands as to the number of apprentices they should employ. *People v. Hughes*, 137 N. Y. 29 (1893). Defendant, president of a labor union, was convicted of extortion because he had obtained money from a contractor under threat of continuing a strike. *People v. Weinsheimer*, 117 App. Div. 603 (Feb., 1907).

§ 720. **Relating to disorderly conduct on public conveyances.**—Any person who shall by any offensive or disorderly act or language, annoy or interfere with any person in any place or with the passengers of any public stage, railroad car, ferry boat, or other public conveyance, or who shall disturb or offend the occupants of such stage, car, boat or conveyance, by any disorderly act, language or display, although such act, conduct or display may not amount to an assault or battery, shall be deemed guilty of a misdemeanor.

§ 43. **Penalty for acts for which no punishment is expressly prescribed.**—A person who wilfully and wrongfully commits any act which seriously injures the person or property of another, or which seriously disturbs or endangers the public peace or health, or which openly outrages public decency, for which no other punishment is expressly prescribed by this chapter, is guilty of a misdemeanor; but nothing in this chapter contained shall be so construed as to prevent any person from demanding an increase of wages, or from assembling and using all lawful means to induce employers to pay such wages to all persons employed by them, as shall be a just and fair compensation for services rendered.

**THE "ANTI-PINKERTON" ACT: PROHIBITING THE APPOINTMENT OF NON-RESIDENTS AS SPECIAL OFFICERS TO PRESERVE THE PUBLIC PEACE.**

**PENAL LAW, CHAPTER 40 OF THE CONSOLIDATED LAWS.**

§ 1845. **Special peace officers to be citizens.**—No sheriff of a county, mayor of a city, or officials, or other person authorized by law to appoint special deputy sheriffs, special constables, marshals, policemen, or other peace officers in this state, to preserve the public peace or quell public disturbance, shall hereafter, at the instance of any agent, society, association or corporation, or otherwise, appoint as such special deputy, special constable, marshal, policeman, or other peace officer, any person who shall not be a citizen of the United States and a resident of the state of New York, and entitled to vote therein at the time of his appointment, and a resident of the same county as the mayor or sheriff or other official making such appointment; and no person shall assume or exercise the functions, powers, duties or privileges incident and belonging to the office of special deputy sheriff, special constables, marshal or policeman, or other peace officer, without having first received his appointment in writing from the authority lawfully appointing him.

A violation of the provisions of this section is a misdemeanor.

§ 1846. **Making arrest without lawful authority.**—Any person who shall, in this state, without due authority, exercise, or attempt to exercise the functions of, or hold himself out to any one as a deputy sheriff, marshal,

or policeman, constable or peace officer, or any public officer, or person pretending to be a public officer, who, unlawfully, under the pretense or color of any process, arrests any person or detains him against his will, or seizes or levies upon any property, or dispossesses any one of any lands or tenements without a regular process therefor, is guilty of a misdemeanor. But nothing herein contained shall be deemed to affect, repeal or abridge the powers authorized to be exercised under sections one hundred and two, one hundred and four, one hundred and sixty-nine, one hundred and eighty-three, eight hundred and ninety-five, eight hundred and ninety-six and eight hundred and ninety-seven of the code of criminal procedure; or under section ninety of the railroad law; or under section eleven hundred and forty-seven of this chapter. All places kept for summer resorts and the grounds of racing associations in the counties of New York, Kings and Westchester, are hereby exempted from the provisions of this section.

*Cf.* the Railroad Law, § 58, under "Conductors and Trainmen as Policemen under "RAILWAY LABOR," *ante*.

## REGULATION OF EMPLOYMENT AGENCIES, BOARDING HOUSES, ETC.

### EMPLOYMENT OFFICES IN CITIES.

[The original act (L. 1904, ch. 432, afterwards amended by L. 1906, ch. 327) from which the following sections were derived, was held to be a constitutional exercise of the police power: *People ex rel. Armstrong v. Warden of the City Prison*, 183 N. Y. 223 (1905).]

The amendment of 1910 provides that said amendment "shall not affect the licenses issued pursuant to such article prior to the taking effect of this act until the expiration of such licenses or unless such licenses are terminated as provided herein. Such amendment shall not affect the tenure of office of the commissioner of licenses, the deputy commissioner of licenses or of inspectors, or of the employees to whom the enforcement of such law relative to employment agencies is now entrusted, or any action, or cause of action, arising from the provisions of article eleven of the general business law."]

### GENERAL BUSINESS LAW, CHAPTER 20 OF THE CONSOLIDATED LAWS.

#### ARTICLE 2.

(As am'd by L. 1910, ch. 700.)

#### Employment Agencies.

Section 170. Application of article.

171. Definitions.
172. License required.
173. Application for license.
174. Procedure upon application; grant of license.
175. Form and contents of license.
176. Assignment or transfer of license; change of location.
177. Bonds and license fees.
178. Action on bond.
179. Registers to be kept.
180. Statements to be filed in theatrical employment agencies.
181. Card to be furnished to applicant for employment.
182. Employment contracts.
183. Theatrical employment contracts.
184. Inspection of registers, books and records.
185. Fees charged by persons conducting employment agencies.
186. Return of fees.
187. Receipt for fees paid.
188. Copies of law to be posted.
189. False or misleading advertisements and information.
190. Prohibition as to employment agencies.
191. Enforcement of provisions of this article.
192. Penalties for violations.

§ 170. Application of article.—1. This article shall apply to all cities of the state, except that the provisions hereof relating to domestic and commercial employment agencies shall not apply to cities of the third class. This article does not apply to employment agencies which procure employment for persons as teachers exclusively, or employment for persons in technical or executive positions in recognized educational institutions; to registries conducted by duly incorporated associations of registered nurses; and employment bureaus conducted by registered medical institutions or duly

incorporated hospitals. Nor does such article apply to departments or bureaus maintained by persons for the purpose of securing help or employees, where no fee is charged.

§ 171. Definitions.—1. When used in this article the following terms are defined as herein specified. The term "person" means and includes any individual, company, society, association, corporation, manager, contractor, subcontractor or their agents or employees.

2. The term "employment agency" means and includes the business of conducting, as owner, agent, manager, contractor, subcontractor or in any other capacity an intelligence office, domestic and commercial employment agency, theatrical employment agency, general employment bureau, shipping agency, nurses' registry, or any other agency or office for the purpose of procuring or attempting to procure help or employment or engagements for persons seeking employment or engagements, or for the registration of persons seeking such help, employment or engagement, or for giving information as to where and of whom such help, employment or engagement may be procured, where a fee or other valuable consideration is exacted, or attempted to be collected for such services, whether such business is conducted in a building or on the street or elsewhere.

3. The term "theatrical employment agency" means and includes the business of conducting an agency, bureau, office or any other place for the purpose of procuring or offering, promising or attempting to provide engagements for circus, vaudeville, theatrical and other entertainments or exhibitions or performances, or of giving information as to where such engagements may be procured or provided, whether such business is conducted in a building, on the street or elsewhere.

4. The term "theatrical engagement" means and includes any engagement or employment of a person as an actor, performer or entertainer in a circus, vaudeville, theatrical and other entertainment, exhibition or performance.

5. The term "emergency engagement" means and includes an engagement which has to be performed within twenty-four hours from the time when the contract for such engagement is made.

6. The term "fee" means and includes any money or other valuable consideration paid or promised to be paid for services rendered or to be rendered by any person conducting an employment agency of any kind under the provisions of this article. Such term includes any excess of money received by any such person over what has been paid out by him for the transportation, transfer of baggage, or board and lodging for any applicant for employment; such term also includes the difference between the amount of money received by any such person who furnishes employees, performers or entertainers for circus, vaudeville, theatrical and other entertainments, exhibitions or performances, and the amount paid by him to the said employees, performers or entertainers whom he hires or provides for such entertainments, exhibitions or performances.

7. The term "privilege" means and includes the furnishing of food, supplies, tools or shelter to contract laborers, commonly known as missionary privileges.

§ 172. License required.—A person shall not open, keep, maintain or carry on any employment agency, as defined in the preceding section, unless he

shall have first procured a license therefor as provided in this article from the mayor or the commissioner of licenses of the city in which such person intends to conduct such agency. Such license shall be posted in a conspicuous place in said agency. Any person who shall open or conduct such an employment agency without first procuring said license shall be guilty of a misdemeanor and shall be punishable by a fine of not less than twenty-five dollars and not more than two hundred and fifty dollars, or by imprisonment for a period of not more than one year, or both, at the discretion of the court.

See requirement of registration with State Commissioner of Labor under § 155 of the Labor Law, *ante*.

§ 173. **Application for license.**—An application for such license shall be made to the mayor or commissioner of licenses, in case such office shall have been established as herein provided. Such application shall be written and in the form prescribed by the mayor or commissioner of licenses, and shall state the name and address of the applicant; the street and number of the building or place where the business is to be conducted; whether the applicant proposes to conduct a lodging house for the unemployed separate from the agency which he proposes to conduct; the business or occupation engaged in by the applicant for at least two years immediately preceding the date of the application. Such application shall be accompanied by the affidavits of at least two reputable residents of the city to the effect that the applicant is a person of good moral character.

§ 174. **Procedure upon application; grant of license.**—Upon the receipt of an application for a license the mayor or commissioner of licenses shall cause the name and address of the applicant, and the street and number of the place where the agency is to be conducted, to be posted in a conspicuous place in his public office. The said mayor or commissioner of licenses shall investigate or cause to be investigated the character and responsibility of the applicant and shall examine or cause to be examined the premises designated in such application as the place in which it is proposed to conduct such agency. Any person may file, within one week after such application is so posted in the said office, a written protest against the issuance of such license. Such protest shall be in writing and signed by the person filing the same or his authorized agent or attorney, and shall state reasons why the said license should not be granted. Upon the filing of such protest the mayor or commissioner of licenses shall appoint a time and place for the hearing of such application, and shall give at least five days' notice of such time and place to the applicant and person filing such protest. The said mayor or commissioner of licenses may administer oaths, subpoena witnesses and take testimony in respect to the matters contained in such application and protest or complaints of any character for violations of this article, and may receive evidence in the form of affidavits pertaining to such matters. If it shall appear upon such hearing or from the inspection or examination made by the said mayor or commissioner of licenses that the said protest is sustained or that the applicant is not a person of good character, or that the place where such agency is to be conducted is not a suitable place therefor, or that the applicant has not complied with the provisions of this article, the said application shall be denied and a license

shall not be granted. Each application should be granted or refused within thirty days from the date of its filing. The license shall run to the first Tuesday of May next following the date thereof and no later, unless sooner revoked by the mayor or the commissioner of licenses. No license shall be granted to a person to conduct the business of an employment agency in rooms used for living purposes or where boarders or lodgers are kept or where meals are served or where persons sleep or in connection with a building or premises where intoxicating liquors are sold to be consumed on the premises, excepting cafes and restaurants in office buildings.

§ 175. **Form and contents of license.**—Every license shall contain the name of the person licensed, a designation of the city, street and number of the house in which the person licensed is authorized to carry on the said employment agency, and the number and date of such license. Such license shall not be valid to protect any other than the person to whom it is issued or any place other than that designated in the license and shall not be transferred or assigned to any other person unless consent is obtained from the mayor or commissioner of licenses, as hereinafter provided. If such licensed person shall conduct a lodging house for the unemployed separate and apart from such agency, it shall be so designated in the license.

§ 176. **Assignment or transfer of license; change of location.**—A license granted as provided in this article shall not be assigned or transferred without the consent of the mayor or commissioner of licenses. Applications for such consent shall be made in the same manner as an application for a license, and all the provisions of sections one hundred and seventy-three and one hundred and seventy-four relating to the granting of applications for licenses, including the procedure upon such application and the posting of the names and addresses of applicants shall apply to applications for such consent. No license fee shall be required upon such assignment or transfer. No location of an employment agency shall not be changed without the consent of the mayor or commissioner of licenses, and such change of location shall be indorsed upon the license.

§ 177. **Bonds and license fees.**—1. Every person licensed under the provisions of this act to carry on the business of an employment agency shall pay to the mayor or the commissioner of licenses a license fee of twenty-five dollars before such license is issued. He shall also deposit before such license is issued, with the commissioner of licenses, in every city where there is a commissioner of licenses, or clerk of the city, a bond in the penal sum of one thousand dollars with two or more sureties or a duly authorized surety company, to be approved by the mayor or the commissioner of licenses.

2. The bond executed as provided in the preceding subdivision of this section shall be payable to the people of the city in which any such license is issued and shall be conditioned that the person applying for the license will comply with this article, and shall pay all damages occasioned to any person by reason of any misstatement, misrepresentation, fraud or deceit, or any unlawful act or omission of any licensed person, his agents or employees, while acting within the scope of their employment, made, committed or omitted in the business conducted under such license, or caused by any other violation of this article in carrying on the business for which such license is granted.

3. If at any time, in the opinion of the mayor, or the commissioner of licenses, the sureties or any of them shall become irresponsible the person holding such license shall, upon notice from the mayor or the commissioner of licenses, give a new bond, subject to the provisions of this section. The failure to give a new bond within ten days after such notice, in the discretion of the mayor or commissioner of licenses, shall operate as a revocation of such license and the license shall be thereupon returned to the mayor or the commissioner of licenses who shall destroy the same.

§ 178. **Action on bond; suits how brought.**—All claims or suits brought in any court against any licensed person may be brought in the name of the person damaged upon the bond deposited with city by such licensed person as provided in section one hundred and seventy-seven and may be transferred and assigned as other claims for damages in civil suits. The amount of damages claimed by plaintiff, and not the penalty named in the bond, shall determine the jurisdiction of the court in which the action is brought. Where such licensed person has departed from the state with intent to defraud his creditors or to avoid the service of a summons in an action brought under this section, service shall be made upon the surety as prescribed in the code of civil procedure. A copy of such summons shall be mailed to the last known post-office address of the residence of the licensed person and the place where he conducted such employment agency, as shown by the records of the mayor or commissioner of licenses. Such service thereof shall be deemed to be made when not less than the number of days shall have intervened between the dates of service and the return of the same as provided by the civil procedure for the particular court in which suit has been brought.

§ 179. **Registers to be kept.**—It shall be the duty of every licensed person to keep a register, approved by the mayor or the commissioner of licenses, in which shall be entered, in the English language, the date of the application for employment; the name and address of the applicant to whom employment is promised or offered, or to whom information or assistance is given in respect to such employment; the amount of the fee received, and whenever possible, the names and addresses of former employers or persons to whom such applicant is known. Such licensed person shall also enter in the same or in a separate register, approved by the mayor or commissioner of licenses, in the English language, the name and address of every applicant accepted for help, the date of such application, kind of help requested, the names of the persons sent, with the designation of the one employed, the amount of the fee received and the rate of wages agreed upon. No such licensed person, his agent or employees, shall make any false entry in such registers. It shall be the duty of every licensed person, whenever possible, to communicate orally or in writing with at least one of the persons mentioned as references for every applicant for work in private families, or employed in a fiduciary capacity, and the result of such investigation shall be kept on file in such agency; provided, that if the applicant for help voluntarily waives in writing such investigation of references by the licensed person, failure on the part of the licensed person to make such investigation shall not be deemed a violation of this section.

See also requirements as to register in § 155 of the Labor Law, *ante*.

§ 180. **Statements to be filed in theatrical employment agencies.**—Every licensed person conducting a theatrical employment agency, before making a theatrical engagement, except an emergency engagement, for any person with any applicant for services in any such engagement shall prepare and file in such agency a written statement signed and verified by such licensed person setting forth how long the applicant has been engaged in the theatrical business. Such statement shall set forth whether or not such applicant has failed to pay salaries or left stranded any companies, in which such applicant and, if a corporation any of its officers or directors, have been financially interested during the five years preceding the date of application and, further, shall set forth the names of at least two persons as references. If such applicant is a corporation, such statement shall set forth the names of the officers and directors thereof and the length of time such corporation or any of its officers have been engaged in the theatrical business and the amount of its paid-up capital stock. If any allegation in such written, verified statement is made upon information and belief, the person verifying the statement shall set forth the sources of his information and the grounds of his belief. Such statement so on file shall be kept for the benefit of any person whose services are sought by any such applicant as employer.

§ 181. **Card to be furnished to applicant for employment.**—Every such licensed person shall give to each applicant for domestic or commercial employment a card or printed paper containing the name of the applicant, the name and address of such employment agency and the written name and address of the person to whom the applicant is sent for employment; kind of services to be performed; rate of wages or compensation; the time of such services, if definite, and if indefinite, to be so stated; and the name and address of person authorizing the hiring of such applicant, and the cost of transportation if the services are required outside of the city where such agency is located.

§ 182. **Employment contract.**—A licensed person shall not induce or attempt to induce any employee to leave his employment with a view to obtaining other employment through such agency. Whenever such licensed person or any other acting for him, agrees to send one or more persons to work as contract laborers in any one place outside the city in which such agency is located, the said licensed person shall file with the mayor or commissioner of licenses, within five days after the contract is made, a statement containing the following items: Name and address of the employer; name and address of the employee; nature of the work to be performed, hours of labor; wages offered, destination of the persons employed, and terms of transportation. A duplicate copy of this statement shall be given to the applicant for employment, in a language which he is able to understand, before he leaves the city.

§ 183. **Theatrical employment; contracts.**—Every licensed person who shall procure for or offer to an applicant a theatrical engagement shall have executed in duplicate a contract containing the name and address of the applicant; the name and address of the employer of the applicant and of the person acting for such employer in employing such applicant; the time and duration of such engagement; the amount to be



paid to such applicant; the character of entertainment to be given or services to be rendered; the number of performances per day or per week that are to be given by said applicant; if a vaudeville engagement, the name of the person by whom the transportation is to be paid, and if by the applicant, either the cost of the transportation between the places where said entertainment or services are to be given or rendered, or the average cost of transportation between the places where such services are to be given or rendered; and if a dramatic engagement the cost of transportation to the place where the services begin if paid by the applicant; and the gross commission or fees to be paid by said applicant and to whom. Such contracts shall contain no other conditions and provisions except such as are equitable between the parties thereto and do not constitute an unreasonable restriction of business. The form of such contract shall be first approved by the mayor or commissioner of licenses and his determination shall be reviewable by certiorari. One of such duplicate contracts shall be delivered to the person engaging the applicant and the other shall be retained by the applicant. The licensed person procuring such engagement for such applicant shall keep on file or enter in a book provided for that purpose a copy of such contract.

§ 184. **Inspection of registers, books and records.**—All registers, books, records and other papers required to be kept pursuant to this article in any employment agency shall be open at all reasonable hours to the inspection of the mayor or commissioner of licenses, and to any duly authorized agent or inspector of such mayor or commissioner.

See also power of State Commissioner of Labor to inspect in §§ 153 and 155 of Labor Law, *ante*.

§ 185. **Fees charged by persons conducting employment agencies.**—1. The gross fees of licensed persons charged to applicants for employment as lumbermen, agricultural hands, coachmen, grooms, hostlers, seamstresses, cooks, waiters, waitresses, scrub-women, laundresses, maids, nurses (except professionals), and all domestics and servants, unskilled workers and general laborers, shall not in any case exceed ten per centum of the first month's wages, and for all other applicants for employment, shall not exceed the amount of the first week's wages or salary unless the period of employment is for at least one year, and at a yearly salary, and in that event the gross fee charged shall not exceed five per centum of the first year's salary, except when the employment or engagement is of a temporary nature, not to exceed in any single contract one month, then the fee shall not exceed ten per centum of the salary paid.

2. The gross fees of licensed persons charged to applicants for theatrical engagements by one or more such licensed persons, individually or collectively procuring such engagements, except vaudeville or circus engagements, shall not in any case exceed the gross amount of five per centum of the wages or salary of the engagement when the engagement is less than ten weeks; and an amount of five per centum of the salary or wages per week for ten weeks of a season's engagement constituting ten weeks or more. The gross fees charged by such licensed persons to applicants for vaudeville or circus engagements by one or more such licensed persons, individually or collectively, procuring such engagement, shall not in any case

exceed five per centum of the salary or wages paid. The gross fees for a theatrical engagement, except an emergency engagement, shall be due and payable at the end of each week of the engagement, and shall be based on the amount of compensation actually received for such engagement, except when such engagement is unfulfilled through any act within the control of the applicant for such engagement.

3. A licensed person conducting any employment agency under this article shall not receive or accept any valuable thing or gift as a fee or in lieu thereof. No such licensed person shall divide or share, either directly or indirectly, the fees herein allowed, with contractors, subcontractors, employers or their agents, foremen or any one in their employ, or if the contractors, subcontractors or employers be a corporation, any of the officers, directors or employees of the same to whom applicants for employment or theatrical engagements are sent.

4. Any person violating the provisions of this section shall be deemed guilty of a misdemeanor and upon conviction of any licensed person for any violation thereof shall be subject to a fine of not less than twenty-five dollars and not more than two hundred and fifty dollars, or imprisonment for not more than one year, or both, at the discretion of the court, and the mayor or commissioner of licenses shall forthwith cancel and revoke the license of such person.

§ 186. **Return of fees.**—1. In case a person applying for help or employment of a domestic or commercial employment agency shall not accept help or obtain employment through such agency, then the licensed person conducting such agency shall on demand repay the full amount of the said fee, allowing three days' time to determine the fact of the applicant's failure to obtain help or employment. If an employee furnished fails to remain one week in the situation, a new employee shall be furnished to the applicant for help if he so elects, or three-fifths of the fee returned, within four days of demand; provided said applicant for help notifies said licensed person within thirty days of the failure of the applicant to accept the position or of the applicant's discharge for cause. If the employee is discharged within one week without said employee's fault another position shall be furnished, or three-fifths of the fee returned to the applicant for employment if he so elects. Failure of said applicant for help to notify said licensed person that such has been obtained through means other than said agency shall entitle said licensed person to retain or collect three-fifths of the said fee.

2. No such licensed person shall send out any applicant for employment without having obtained, either orally or in writing, a bona fide order therefor, and if it shall appear that no employment of the kind applied for existed at the place to which said applicant was directed, the said licensed person shall refund to such applicant within three days of demand any sums paid by said applicant for transportation in going to and returning from said place, and all fees paid by said applicant.

§ 187. **Receipt for fees paid.**—It shall be the duty of every such licensed person conducting an employment agency to give to every applicant for employment from whom a fee shall be received a receipt in which shall be

stated, the name of said applicant, the date and amount of the fee, and the purpose for which it was paid, and to every applicant for help a receipt stating the name and address of said applicant, the date and amount of the fee, and the kind of help to be provided. Every such receipt, excepting those given by theatrical employment agencies, shall have printed on the back thereof a copy of sections one hundred and eighty-five, one hundred and eighty-six, one hundred and eighty-seven, in the English language and in any language which the person to whom the receipt is issued can understand.

§ 188. Copies of law to be posted.—Every licensed person shall post in a conspicuous place in each room of such agency sections one hundred and seventy-eight, one hundred and eighty, one hundred and eighty-one, one hundred and eighty-two, one hundred and eighty-three, one hundred and eighty-five, one hundred and eighty-six, one hundred and eighty-seven and one hundred and eighty-nine, of this article, which shall be printed in large type in languages in which persons commonly doing business with such office can understand. Such printed law shall also contain the name and address of the officer charged with the enforcement of this article in such city.

§ 189. False or misleading advertisements and information.—No licensed person conducting any employment agency shall publish or cause to be published any false or fraudulent or misleading information, representation, notice or advertisement; all advertisements of such employment agency by means of cards, circulars, or signs and in newspapers and other publications, and all letter heads, receipts and blanks shall be printed and contain the licensed name and address of such employment agent and the word agency, and no licensed person shall give any false information, or make any false promise or false representation concerning an engagement or employment to any applicant who shall register or apply for an engagement or employment or help.

§ 190. Prohibitions as to employment agencies.—No licensed person conducting an employment agency shall send or cause to be sent any female as a servant, employee, inmate, entertainer or performer, or any male as an employee or entertainer to any place of bad repute, house of ill-fame, or assignation house, or to any house or place of amusement kept for immoral purposes, or place resorted to for the purposes of prostitution, or gambling house, the character of which such licensed person could have ascertained upon reasonable inquiry. No licensed person shall send out any female applicant for employment, without making a reasonable effort to investigate the character of the employer. Nor shall any such licensed person send any female as an entertainer or performer to any place where such female will be required or permitted to sell, offer for sale or solicit the sale of intoxicating liquors to those present or assembled as an audience or otherwise in such place or in any rooms or buildings adjacent thereto. No licensed person shall knowingly permit any persons of bad character, prostitutes, gamblers, intoxicated persons or procurers to frequent such agency. No licensed person shall accept any application for employment made by or on behalf of any child or shall place or assist in placing any such child in any employment whatever in violation of article twenty of the education law, relating

to compulsory education, and in violation of the labor law. No licensed person, his agents, servants or employees shall induce or compel any person to enter such agency for any purpose, by the use of force or by taking forcible possession of said person's property. No person shall procure or offer to procure help or employment in rooms or on premises where intoxicating liquors are sold to be consumed on the premises whether or not dues or a fee or privilege are exacted, charged or received directly or indirectly, except in office buildings in which are located cafes and restaurants. For the violation of any of the foregoing provisions of this section the penalties shall be a fine of not less than twenty-five dollars, and not more than two hundred and fifty dollars, or imprisonment for a period of not more than one year, or both, at the discretion of the court.

§ 191. Enforcement of provisions of this article.—1. In cities of the second and third class and in cities of the first class having a population of less than three hundred thousand, this article, so far as it relates to such cities, shall be enforced by the mayor or an officer appointed by him.

2. In cities of the first class having a population of three hundred thousand or more the enforcement of this article so far as it relates to such cities shall be intrusted to a commissioner to be known as a commissioner of licenses, who shall be appointed by the mayor, and whose salary, together with those of a deputy commissioner, and inspectors to be appointed by him, shall be fixed by the board of estimate and apportionment. Said commissioner of licenses and deputy commissioner shall have no other occupation or business. The commissioner of licenses shall appoint inspectors, who shall make at least bi-monthly visits to every such agency. Said inspectors shall have suitable badges which they shall exhibit on demand of any person with whom they may have official business. Such inspectors shall see that all the provisions of this article, so far as it relates to such cities, are complied with, and shall have no other occupation or business.

3. Complaints against any such licensed person shall be made orally or in writing to the mayor or commissioner of licenses, or be sent in in affidavit form without appearing in person, and reasonable notice thereof, not less than one day, shall be given in writing to said licensed person by serving upon the licensed person either personally or by leaving the same with the person in charge of his office, a concise statement of the facts constituting the complaint, and a hearing pursuant to the powers granted to the mayor or commissioner of licenses as provided in section one hundred and seventy-four shall be had before the mayor or commissioner of licenses within one week from the date of the filing of the complaint and no adjournment shall be taken for a period longer than one week. A daily calendar of all hearings shall be kept by the mayor or commissioner of licenses and shall be posted in a conspicuous place in his public office for at least one day before the date of such hearings. The mayor or commissioner of licenses shall render his decision within eight days from the time the matter is finally submitted to him. Said mayor or commissioner of licenses shall keep a record of all such complaints and hearings. The said mayor or commissioner of licenses may refuse to issue and shall revoke any license for any good cause shown, within the meaning and purpose of this article and when it is shown to the

satisfaction of the mayor or commissioner of licenses that any licensed person is guilty of any immoral, fraudulent or illegal conduct in connection with the conduct of said business, it shall be the duty of the mayor or the commissioner of licenses to revoke the license of such person; but notice of the charges shall be presented and reasonable opportunity shall be given said licensed person to defend himself. Whenever said mayor or commissioner of licenses shall refuse to issue or shall revoke the license of an employment agency, said determination may be reviewed by certiorari. Whenever for any cause such license is revoked, said mayor or commissioner of licenses shall not issue another license to said licensed person or his representative or to any person with whom he is to be associated in the business of furnishing employment, help or engagements. In the absence of the commissioner of licenses, the deputy commissioner of licenses may conduct hearings and act upon applications for licenses, and revoke such licenses.

§ 192. Penalties for violations.—The violation of any provision of this article except as otherwise provided in this article shall be punishable by a fine not to exceed twenty-five dollars, and any city magistrate, police justice, justice of the peace, or any inferior magistrate having original jurisdiction in criminal cases, shall have power to impose said fine, and in default of payment thereof to commit the person so offending for a period not exceeding thirty days. The said mayor or commissioner of licenses or any person, his agent or attorney, aggrieved because of the violations of this article shall institute criminal proceedings for its enforcement before any court of competent jurisdiction.

#### **REGULATING THE SALE OF TRANSPORTATION TICKETS AND THE TAKING OF DEPOSITS.**

GENERAL BUSINESS LAW, CHAPTER 20 OF THE CONSOLIDATED LAWS.

##### **ARTICLE 10.**

*[As Amended by L. 1910, ch. 349, in effect Sept. 1, 1910.]*

##### **Ticket Agents.**

Section 150. Licenses to sell transportation tickets or orders for transportation, to or from foreign countries.

151. Bonds.

152. Revocation of licenses.

153. Penalties for conducting business without license, et cetera.

154. Discharge and renewal of bonds.

§ 150. Licenses to sell transportation tickets or orders for transportation, to or from foreign countries.—No person, firm or corporation, other than railroad companies or transatlantic steamship companies or the agents of such railroad companies or steamship companies duly appointed in writing, shall hereafter engage within this state in the sale of steamship tickets or orders for transportation to or from foreign countries, without having first procured a license to carry on such business from the comptroller. Such license shall be granted on an application designating the place where the business for which a license is sought is to be carried on, and shall be accompanied by satisfactory proof by affidavit of good moral character. Such license shall be granted upon the payment to the comptroller of a fee of twenty-five dollars, and shall be renewed on payment of a like fee annually. Every license shall

contain the name of the licensee, a designation of the city, street and number of the house in which the licensee is authorized to carry on business, and the number and date of such license. Such license shall not be transferred or assigned, nor authorize the transaction of business at any place other than that designated in the license, except with the written approval of the comptroller. The license shall run to the first day of September next ensuing the date thereof, and no longer, unless sooner revoked by the comptroller.

§ 151. **Bonds.**—The comptroller shall require the applicant for a license to file with the application therefor a bond, in due form, to the people of the state of New York, in the penal sum of two thousand dollars, in cities of the first class, and of one thousand dollars in all other localities, with two or more sufficient sureties, who shall be freeholders within the state of New York, conditioned that the obligor will duly account for all moneys received for steamship tickets or orders for transportation to or from foreign countries, and that the obligor will not be guilty of any fraud or misrepresentation to any purchaser of such tickets or orders. The bond of a surety company approved by the comptroller, or cash, may be accepted in lieu of surety. The comptroller shall keep a book or books wherein shall be entered in alphabetical order all licenses granted and all bonds received by him as provided in this article, the date of the issuance of said licenses and of the filing of such bonds, the name or names of the principals, with a statement of the place of business, and the names of the sureties upon the bonds so filed, which records shall be open to public inspection. A suit to recover on the bond required to be filed under the provisions of this article may be brought by or on the relation of any party aggrieved in a court of competent jurisdiction, and in the event that the obligor on said bond has been guilty of fraud or misrepresentation, may be enforced by the comptroller in the name of the people of the state of New York to recover the full penalty thereof. The fees received for the issuance of any license provided for in this article and the money reserved as the penalty on any bond, enforced by the comptroller, shall be paid into the state treasury, to be used to defray the miscellaneous expenses of the comptroller.

§ 152. **Revocation of licenses.**—In the event that any licensee shall be guilty of any fraud or misrepresentation, or shall fail to account for any moneys paid in connection with the sale of any ticket or order for transportation by steamship, the comptroller shall be empowered, on giving such notice to the licensee as he shall deem sufficient, and an opportunity to answer any charges made against such licensee, to revoke the license under which such business shall be carried on.

§ 153. **Penalties for conducting business without license, et cetera.**—Any person, firm or corporation carrying on the business specified in this article without having obtained from the comptroller a license therefor, or who shall carry on such business after the revocation of a license to carry on such business, shall be guilty of a misdemeanor.

§ 154. **Discharge and renewal of bonds.**—The provisions of section twenty-nine-a of this chapter as to discharge and renewal of bonds shall be applicable to any bond given pursuant to this article.

*Cf.* § 29-a under Regulation of Private Banking below.

Ch. 348 of L. 1910 (see below) repealed old article 10 but specified that such repeal should not affect any existing or accrued right or liability.

## PENAL LAW, CHAPTER 40 OF THE CONSOLIDATED LAWS.

§ 1563. Advertising as agent, without written authorization; false or misleading information.—No person issuing, selling or offering to sell any passage ticket or any instrument giving or purporting to give any right, either absolutely or upon any condition or contingency, to a passage or conveyance upon any vessel, or a berth or stateroom in any vessel, shall hold himself out to be or advertise himself in any way as the agent of the owners or consignees of such vessel or line, unless he has received authority in writing therefor, specifying the name of the company, line or vessel for which he is authorized to act as agent and the city, town or village, together with the street, and street number in which his office is kept for the sale of tickets, and unless such written authorization is conspicuously displayed in such office. Provided that this section shall not apply to the sale of passage tickets on board any such vessel or to the offices of the actual owners or consignees of such vessel.

No person issuing, selling or offering to sell any such passage ticket or instrument giving or purporting to give any such right to passage or conveyance shall give any false or misleading information in regard to said passage ticket or instrument or line over which such passage is sold, or as to his agency for such line or vessel.

§ 1564. Issuance of order or other instrument securing passage by vessel from foreign port to this state; what to contain.—No person agreeing to furnish or secure for any other person, for a consideration, passage by vessel from any foreign port to any port in this state shall issue any advice, order, certificate or other instrument purporting to entitle one or more persons to a passage ticket or other evidence of a right of passage, unless every such advice, order, certificate or instrument shall be signed or countersigned by a duly appointed agent as provided in section fifteen hundred and sixty-three, of the vessel or line over which said advice, order, certificate or other instrument is held out to be good to secure such passage ticket or other evidence of a right of passage. Every such order, advice, certificate or other instrument and every receipt for money paid for or on account of any such advice, order, certificate or other instrument, shall contain a statement of the amount paid or to be paid for such passage; the name, address and age of the person for whom intended; the name of the company or line, if any, to which the vessel on which passage is to be made belongs; the place from which such passage is to commence; the place where such passage is to terminate; the name of the person purchasing such advice, order, certificate or other instrument, and such advice, order, certificate or other instrument must be signed by the person who issues it.

§ 1565. Punishment for violation of two preceding sections.—Any person violating any of the provisions of section fifteen hundred and sixty-three, or fifteen hundred and sixty-four, shall be guilty of a misdemeanor and for a second or further violation shall be guilty of a felony.

As to protection of immigrants against possible extortion or ill-treatment on the part of transportation companies, see Penal Law, § 1561, which fixes a maximum rate of 1¼ cents per mile.

**REGULATING PRIVATE BANKING.**

**GENERAL BUSINESS LAW. CHAPTER 20 OF THE CONSOLIDATED LAWS.**

**ARTICLE 3-a.**

*[As added by L. 1910, ch. 348, in effect September 1, 1910.]*

**Private Banking.**

Section 25. Licenses, bonds and deposits.

- 26. Books to be kept and records to be made; revocation of licenses.
- 27. Penalties for conducting business without license, et cetera.
- 28. Perjury.
- 29. Penalty for failure to make reports.
- 29-a. Discharge and renewal of bonds, substitution of securities, et cetera.
- 29-b. Burden of proof in actions against licensee.
- 29-c. Time within which money is to be transmitted.
- 29-d. Exceptions.
- 29-e. Construction of this article.
- 29-f. Additional penal provision.
- 29-g. Bureau of licenses.

§ 25. Licenses, bonds and deposits.— Except as provided in section twenty-nine-d, no individual or partnership shall hereafter engage directly or indirectly in the business of receiving deposits of money for safe-keeping or for the purpose of transmission to another or for any other purpose in cities of the first class without having first obtained from the comptroller a license to engage in such business. Before receiving such license the applicant therefor shall file with the comptroller a written statement in the form to be prescribed by the comptroller and verified by the individual or members of the firm making the application, showing the amount of the assets and liabilities of the applicant, designating the place where the applicant proposes to engage in business, that the applicant has been, or if the applicant shall constitute a partnership, that a majority of the members thereof having a controlling interest in the business of such partnership have been continuously for a period of five years immediately preceding the date of such application resident in the United States. Such applicant shall at the same time deposit with the comptroller ten thousand dollars in money or in securities which shall consist of bonds of the United States, of this state or of any municipality thereof, or other bonds approved by the comptroller, and if a deposit of securities shall be so made in lieu of ten thousand dollars in money, the comptroller shall thereafter require the applicant to maintain such deposit at all times at a value which shall equal the sum of ten thousand dollars. In addition thereto there shall be presented to the comptroller a bond to the people of the state of New York executed by the applicant and by a surety company approved by the comptroller, conditioned upon the faithful holding of all moneys that may be deposited with the applicant, in accordance with the terms of the deposit and the repayment of such moneys so deposited and upon the faithful transmission of any money which shall be delivered to such applicant for transmission to another, and in the event of the insolvency or bankruptcy of the applicant, upon the payment of the full amount of such bond to the assignee, receiver or trustee of the applicant, as the case may require, for the benefit of the persons making such deposits and of such persons as shall deliver money to the applicant for transmission to another. The penalty of the bond shall be a sum fixed by the comptroller, which shall not be more than fifty thousand dollars nor less



than ten thousand dollars. In lieu of the aforesaid bond the applicant may deposit and the comptroller shall accept, money and securities of the character above described. The money and securities so deposited shall be held on the conditions specified in the aforesaid bond. If securities be deposited in lieu of the aforesaid bond, and be accepted as hereinafter provided, the comptroller shall require the applicant to maintain such deposit at a value equal to the amount fixed as the penalty of the bond in lieu of which such money and securities shall be so deposited. Upon the receipt of such application the comptroller shall cause to be posted upon a bulletin to be maintained by him in his office in a place accessible to the general public, at noon of the succeeding Friday the name of the applicant and whether individual or partnership, and the proposed business address designated in the application. After notice of the application shall have been so posted for a period of two weeks he may in his discretion approve or disapprove the application. In the event of his approval he shall accept the money, securities and bond, if there be one, and hold them for the purposes herein set forth, and shall issue a license authorizing the applicant to carry on the aforesaid business at the place designated in the application and to be specified in the license certificate. For such license the licensee shall pay a fee of fifty dollars. Such license shall not be transferred or assigned. It shall not authorize the transaction of business at any place other than that described in the license certificate, except with the written approval of the comptroller. Immediately upon the receipt of the license certificate issued by the comptroller pursuant to this article the licensee named therein shall cause such license certificate to be posted and at all times conspicuously displayed in the place of business for which it is issued, so that all persons visiting such place may readily see the same. It shall be unlawful for any person or partnership holding such license certificate to post such certificate or to permit such certificate to be posted upon premises other than those designated therein or to which it has been transferred pursuant to the provisions of this article, or knowingly to deface or destroy any such license certificate. It shall be established to the satisfaction of the comptroller in accordance with rules and regulations by him prescribed, that an unexpired license certificate issued in accordance with the provisions of this article has been lost or destroyed without fault on the part of the holder, the comptroller shall issue a duplicate license therefor. The money and securities deposited with the comptroller as herein provided and the money which in case of default shall be paid on the aforesaid bond by any applicant or the surety thereof, shall constitute a trust fund for the benefit of the depositors of the licensee and of such persons as shall deliver money to such licensee for transmission to another, and such beneficiaries shall be entitled to an absolute preference as to such money or securities, over all general creditors of the licensee. Such money and securities shall in the event of the insolvency or bankruptcy of the licensee be delivered by the comptroller on the order or judgment of a court of competent jurisdiction to the assignee, receiver or trustee of the licensee designated in such order or judgment. The comptroller shall keep a book or books in which the licenses granted and the bonds filed shall be entered in alphabetical order, together with a statement of the date of the issuance of the license, the name or names of the principals, the place

where the business licensed is to be transacted and the name of the surety company upon the bond filed, and the amount of all moneys and a description of all securities deposited, which record shall be open to public inspection. The comptroller shall cause to be printed annually on the first day of January and distributed upon application, a list of all licenses granted and remaining unrevoked. The comptroller shall from time to time pay over to each such licensee all moneys received by him as interest upon any moneys or securities deposited in accordance with the provisions of this article.

**§ 26. Books to be kept and records to be made; revocation of licenses.**—Each licensee shall keep books of account showing full and complete records of all business transacted and a full statement of all assets and liabilities, and shall four times in each year as of such days as the comptroller shall designate by a notice to be posted on the bulletin in his office and by written notice delivered at the place of business of such licensee or deposited in the post-office in a postpaid wrapper directed to him at such place of business, file in the comptroller's office within ten days after the date of such notice, a written statement under oath in such form as shall be prescribed by the comptroller, showing the amount of the assets and liabilities of the licensee, which report shall be accessible to the public at all reasonable times. The license issued shall be revocable at all times by the comptroller for cause shown, and in the event of such revocation or of a surrender of such license, no refund shall be made in respect of any license fee paid under the provisions of this article. Every license certificate shall be surrendered to the comptroller within twenty-four hours after notice in writing to the holder that such license has been revoked. In case of the revocation of such license the money and securities and the bond, if there be one, received from the licensee, shall continue to be held by the comptroller, until otherwise directed by the order or judgment of a court of competent jurisdiction.

**§ 27. Penalties for conducting business without license, et cetera.**—Any person or partnership carrying on the business specified in section twenty-five of this article without having obtained from the comptroller a license therefor, or who shall carry on such business after the revocation of a license to carry on such business, or who, without such license shall, on any sign, letterhead, advertisement or publication of any kind use the word "banking" or "banker" or any equivalent term, in any language, in connection with any business whatsoever, or who shall fail to display the license certificate as provided in section twenty-five hereof, or who shall fail to keep books of account or to make the reports as herein provided, or who shall advertise or publish in any manner whatsoever, either orally or in writing, any statement intended to convey or actually conveying the idea or impression that such licensee is in any way under the supervision of this state or of any officer thereof, or that this state or any officer thereof has passed in any way whatsoever upon the responsibility, solvency or qualifications of such licensee to engage in such business, or that this state or any officer thereof has examined any accounts of said licensee or has in any way certified that such licensee is in any way a fit person to carry on such business, shall be guilty of a misdemeanor.

**§ 28. Perjury.**—Any person who in any application for a license presented to the comptroller, or in any report made under this article, shall swear

falsely as to the amount of the assets or liabilities of the applicant, or as to the amount of the assets or liabilities of a licensee, or in any other particular, or in any affidavit made under section twenty-nine-d of this article shall swear falsely as to any fact therein stated, is guilty of perjury.

§ 29. **Penalty for failure to make reports.**—Any person or partnership who shall fail to make any report required by this article within the time specified for the same, shall forfeit to the people of the state of New York the sum of one hundred dollars for every day that such report shall be delayed or withheld. The money forfeited under this section shall be recovered in an action brought in the name of the people of the state, and with all moneys received as fees for the issuance of the licenses provided for herein shall be paid into the state treasury to the credit of the general fund.

§ 29-a. **Discharge and renewal of bonds, substitution of securities, et cetera.**—The surety in a bond given pursuant to this article may give notice to the comptroller in writing requesting to be released from responsibility on account of any future breach of the condition of the bond, and that the principal in the bond be required to give a new surety, and thereupon the comptroller shall give notice in writing directed to the principal upon said bond at the place designated by him for the transaction of business requiring him within ten days from a day therein specified to file a new bond in the form required therein with a new surety, approved by the comptroller, or money or securities in lieu thereof, and upon the filing of such new bond or such money or securities in lieu thereof within the time specified, but not before, the surety upon the old bond shall be discharged from liability upon the bond given by it for any subsequent act or default of the principal. Whenever money or securities are deposited with the comptroller pursuant to this article, he may in his discretion permit the substitution of securities for money, or of money for securities, in whole or in part, or of money or securities for any bond, or of a bond for money or securities deposited (other than the money or securities of the value of ten thousand dollars which the licensee is required by section twenty-five hereof to keep at all times on deposit with the comptroller), or the withdrawal of securities deposited and the substitution of others of equal value in their place, and if the total value of securities become substantially impaired he shall require the deposit of money or additional securities sufficient to cover the impairment in value. In the event of the failure of such principal to file a new bond or such money securities in lieu thereof, or to deposit money or additional securities to cover any impairment of value of securities theretofore deposited, within the time specified, the comptroller shall forthwith revoke the license of such principal. In the event that the licensee shall at any time discontinue the business licensed or with respect to which a bond shall have been filed or money or securities shall have been deposited pursuant to this article, the comptroller on the order or judgment of a court of competent jurisdiction, may cancel the bond filed by the licensee and return to the licensee all moneys and securities deposited.

§ 29-b. **Burden of proof in actions against licensee.**—In an action against a licensee to recover money deposited with such licensee for transmission, the burden of proving the transmission to and receipt of the money by the person to whom such money is directed to be paid shall be upon the licensee

to whom such money was delivered for transmission. Proof by a properly authenticated affidavit of such licensee or his duly authorized agent, showing the transmission of such money to the person to whom the same was to be transmitted, or to the correspondent of the licensee to whom such money may have been transmitted for payment to the person to whom such money was to be paid, together with a properly authenticated receipt signed by the consignee of such money, or in lieu of such receipt a properly authenticated affidavit of the agent of the licensee showing the fact of payment, shall be deemed sufficient evidence to shift the burden of proof to the plaintiff.

§ 29-c. **Time within which money is to be transmitted.**—All moneys received for transmission to a foreign country by any licensee shall be forwarded to the person to whom the same is directed to be transmitted within five days after the receipt thereof, and every person who shall fail to so forward the same, within the time specified, shall be guilty of a misdemeanor.

§ 29-d. **Exceptions.**—The foregoing provisions shall not apply (1) to any corporation or "individual banker" authorized to do business under the provisions of the banking law, nor to any association organized under the national banking act; nor (2) to any hotel-keeper who shall receive money for safe-keeping from a guest; nor (3) to any express company or telegraph company receiving money for transmission; nor (4) to any individual or partnership receiving money on deposit for safe-keeping or for transmission to others, or for any other purpose, where the average amount of each sum received on deposit, or for transmission, by such individual or partnership in the ordinary course of business, during the fiscal year preceding the date of the affidavit hereinafter specified, shall not be less than five hundred dollars, proof of which fact by affidavit to the satisfaction of the comptroller shall be made by the individual or a member of the partnership seeking exemption hereunder, whenever thereunto requested by the comptroller; nor (5) to any individual or partnership who would otherwise be required to comply with section twenty-five of this article who shall file with the comptroller a bond in the sum of one hundred thousand dollars, approved by the comptroller as to form and sufficiency, for the purpose and conditioned as in said section prescribed, where the business is conducted in a city having a population of one million or over and if conducted elsewhere in the state such bond shall be in the sum of fifty thousand dollars; or in lieu thereof money or securities approved by the comptroller of the same amount. The provisions of section twenty-nine-a shall be applicable to such bond, or deposit of money or securities.

§ 29-e. **Construction of this article.**—Nothing in this article contained shall be construed to require the comptroller to make any inquiry or examination as to the responsibility or solvency of any applicant for a license or of any licensee hereunder.

§ 29-f. **Additional penal provision.**—Any licensee who shall violate any of the provisions of this article the violation of which has not hereinbefore been expressly made a misdemeanor, or a felony, shall be guilty of a misdemeanor.

§ 29-g. **Bureau of licenses.**—The comptroller shall establish a license bureau for the purpose of complying with the provisions of this article.

Section 153 of the Labor Law, *ante*, makes it the duty of the Commissioner of Labor to co-operate in the enforcement of this law.

**MAKING FRAUD BY A NOTARY A MISDEMEANOR.****PENAL LAW, CHAPTER 40 OF THE CONSOLIDATED LAWS.**

§ 1820-a. Subd. 1. Any person who holds himself out to the public as being entitled to act as a notary public or commissioner of deeds, or who assumes, uses or advertises the title of notary public or commissioner of deeds, or equivalent terms in any language, in such a manner as to convey the impression that he is a notary public or commissioner of deeds without having first been appointed as notary public or commissioner of deeds, or

Subd. 2. A notary public or commissioner of deeds, who in the exercise of the powers, or in the performance of the duties of such office shall practice any fraud or deceit, the punishment for which is not otherwise provided for by this act, shall be guilty of a misdemeanor. [*As added by L. 1910, ch. 471, in effect September 1, 1910.*]

See provision for investigation of complaints concerning notaries by Commissioner of Labor in § 153 of the Labor Law, *ante*.

**LICENSING OF SAILORS' BOARDING HOUSES.****LAWS OF 1882, CHAPTER 410 (THE NEW YORK CITY CONSOLIDATION ACT).**

§ 2069. It shall not be lawful for any person, except a pilot or public officer, to board, or attempt to board, a vessel arriving in the port or harbor of New York before such vessel shall have been made fast to the wharf, without first obtaining leave from the master or person having charge of such vessel, or leave in writing from her owners or agents.

§ 2070. It shall not be lawful for any person to board or attempt to board any vessel arriving in or lying or being in the harbor or port of New York, with intent to supply liquors by sale, gift or otherwise, directly or indirectly, to any member of the crew employed on board of such vessel. [*As am'd by L. 1909, ch. 353.*]

§ 2071. It shall not be lawful for any person having boarded any vessel in the port of New York, to neglect or refuse to leave said vessel after having been ordered so to do by the master or person having charge of such vessel. [*As am'd by L. 1909, ch. 353.*]

§ 2072. It shall not be lawful for any person to keep, conduct, or carry on, either as owner, proprietor, agent, or otherwise, any sailors' boarding-house or sailors' hotel in the city of New York, without having the license in this chapter provided.

§ 2073. It shall not be lawful for any person not having the license in this chapter provided, or not being the regular agent, runner, or employee of a person having such a license, to invite, ask, or solicit, in the city or harbor of New York, the boarding or lodging of any of the crew employed on any vessel.

§ 2074. There is created a board denominated a board of commissioners for licensing sailors' hotels or boarding-houses in the city of New York consisting of one person selected by each of the following corporate bodies or associations, respectively, to-wit: The Chamber of Commerce of the State of New York; the American Seamen's Friend Society in New York; the New York Board of Underwriters; the Marine Society of New York; the Society for Promoting the Gospel Among Seamen in the Port of New York; the New York Maritime Association of the Port of New York; the Seamen's Church Institute of New

York; the Seamen's Christian Association of the City of New York, and St. Peter's Union for Catholic Seamen. [*As am'd by L. 1909, ch. 353.*]

§ 2075. Such board shall take the application of any person applying for a license to keep a sailors' boarding-house, or sailors' hotel, in the city of New York, and upon satisfactory evidence to them of the respectability and competency of such applicant, and of the suitableness of his accommodations, shall issue to him a license, which shall run to the first Tuesday of May next ensuing the date thereof and no longer, unless sooner revoked by said board, to keep a sailors' boarding-house in the city and to invite and solicit boarders for the same within the limitations of the state and federal laws relating thereto. [*As am'd by L. 1909, ch. 353.*]

§ 2076. Such board may, upon satisfactory evidence of the disorderly character of any sailors' hotel or boarding-house, licensed as hereinbefore provided, or of the keeper or proprietor of any such house, or of any force, fraud, deceit, or misrepresentation in inviting or soliciting boarders or lodgers for such house, on the part of such keeper or proprietor, or of any of his agents, runners, or employees, or of any attempt to persuade or entice or force any of the crew to desert from or to serve involuntarily on any vessel in the harbor of New York, by such keeper or proprietor, or any of his agents, runners, or employees, revoke the license for keeping such house after notice to the licensee and a hearing thereon and each member of said board is hereby authorized to administer oaths and take and receive evidence in all matters provided for herein. [*As am'd by L. 1909, ch. 353.*]

§ 2077. Every person receiving the license hereinbefore provided for shall pay to the board of commissioners aforesaid the sum of twenty-five dollars for each full year and a proportionate amount for a shorter period which amounts after deducting the actual expenses of said board incurred in the transaction of the business shall be by them applied for the relief of shipwrecked and destitute seamen. Said board shall file on or before the second Monday of January of each year, in the office of the clerk of the city and county of New York, a statement showing the number of licenses issued, the names of persons to whom issued, with name and number of the street or house licensed during the year preceding, the amount of money received therefor, the amount and items of their disbursements, and the amount distributed by them as hereinbefore directed. [*As am'd by L. 1909, ch. 353.*]

§ 2078. The said board shall appoint a president and secretary and shall keep an office in the city of New York, and make such by-laws and regulations as may be needful for the orderly conduct of its business, not inconsistent with the constitution and laws of this state.

§ 2079. The said board shall furnish to each sailors' hotel or boarding-house keeper, licensed by them as aforesaid, one or more badges or shields, on which shall be printed or engraved the name of such hotel or boarding-house keeper, and the number and street of his hotel or boarding-house; and which said badges or shields shall be surrendered to said board upon the revocation by them or expiration of any license granted by them as herein provided.

§ 2080. Every sailors' hotel or boarding-house keeper, and every agent, runner, or employee of such hotel or boarding-house keepers, when boarding any vessel, in the harbor of New York, or when inviting or soliciting the boarding

or lodging of any seaman, sailor, or person employed on any vessel, shall wear conspicuously displayed the shield or badge referred to in the foregoing section.

§ 2081. It shall not be lawful for any person, except those named in the preceding section, to have, wear, exhibit, or display any such shield or badge to any of the crew employed on any vessel with the intent to invite, ask, or solicit the boarding or lodging of any of the crew employed on any vessel being in the harbor of New York.

§ 2082. Whoever shall offend against any or either of the provisions contained in sections two thousand and sixty-nine to two thousand and seventy-three, inclusive, or two thousand and eighty or two thousand and eighty-one, of this act, and any commissioner appointed under this chapter who shall directly or indirectly receive any gratuity or reward, other than as herein provided for, or on account of any license under this chapter shall be deemed guilty of a misdemeanor. [*As am'd by L. 1909, ch. 353.*]

§ 2083. The word "vessel," as used in this chapter shall include vessels by whatever power propelled. The word "sailor" and the word "seamen" as used in this chapter shall include any person not an officer employed on any vessel. The word "boarding-house" as used in this chapter shall include a house where both board and lodgings are given or a house where lodgings alone are given. The word "hotel" as used in this chapter shall include a house where lodgings alone are given or a house where both board and lodgings are given. [*As am'd by L. 1909, ch. 353.*]

§ 2084. The president of the trustees of the Seamen's fund and retreat in the city of New York shall demand and be entitled to receive, and in case of neglect or refusal to pay, shall, in the name of the people of the state of New York, sue for and recover the following sums from either the owner or owners, or from the master, or from both the owner or owners and master, of every vessel from a foreign port; for the master, one dollar and fifty cents; for each mate, sailor, or mariner, one dollar. Second, from the master of each coasting vessel, from each person on board composing the crew of such vessel, twenty-five cents; but no coasting vessel from the state of New Jersey, Connecticut, or Rhode Island shall pay for more than one voyage in each month, computing from the first voyage in each year. And the said president may sue for the penalties imposed by law on masters of coasting vessels for nonpayment of hospital money.

## APPENDIX VII.

### OPINIONS OF THE ATTORNEY-GENERAL CONSTRU- ING PROVISIONS OF THE LABOR LAW.

#### EIGHT-HOUR LAW APPLIES TO PUBLIC WORK IN WATERS OF LAKE ONTARIO.

ALBANY, October 19, 1909.

Hon. JOHN WILLIAMS, *Commissioner of Labor, Albany, N. Y.*

DEAR SIR: I have your letter of the 18th inst., in which you ask me the following question:

“‘A’ enters into a contract with a municipality in this state for the construction of a water system. The construction work by virtue of legislative enactment, is subject to certain restrictions as to hours of labor, etc., and it is the duty of this Department to enforce such restrictions. Certain operations essential to the conduct of the work in question are performed in the waters of Lake Ontario and therefore within the jurisdiction of the United States government. The men employed leave the jurisdiction of this state and return thereto daily. Under these circumstances, can the Commissioner of Labor exercise his authority with respect to the enforcement of the Labor Law without the jurisdiction of the State of New York?”

The question seems to be in substance this: Do the provisions of the Labor Law apply to work done in the waters of Lake Ontario, under contract with a municipality?

By the State Law, the boundary of this state along Lake Ontario is the center of the lake. If the work being done is within this boundary of the state, it is my opinion that the provisions of the Labor Law and your authority as Commissioner of Labor clearly apply. The exclusive jurisdiction conferred upon the courts of the United States in admiralty proceedings and in reference to maritime contracts would not operate to curtail the power of the state and the jurisdiction of the state officers in other respects.

Yours respectfully,

(Signed) EDWARD R. O'MALLEY,  
*Attorney-General.*

#### EIGHT-HOUR LAW APPLIES GENERALLY TO STATE RESERVATION AT NIAGARA FALLS.

ALBANY, June 16, 1910.

Hon. JOHN WILLIAMS, *Commissioner of Labor, Albany, N. Y.*

DEAR SIR: I acknowledge your letter of the 15th inst., in which you ask my opinion as to whether the State Reservation at Niagara is a “state institution” within the meaning of the term as used in section 3 of the Labor



Law, where it provides that "nothing in this section shall be construed to apply to persons regularly employed in state institutions?"

It is my opinion that the State Reservation at Niagara is not a state institution within the meaning of this language. The Board known as the Commissioners of the State Reservation at Niagara is given the control and management of the property constituting such reservation. The purpose of the reservation is to restore the scenery of Niagara Falls and preserve it in its natural condition free of access to all. (Public Lands Law, article IX.) The reservation itself is not an institution in any sense but simply a certain parcel of land described in the statute. (Public Lands Law, § 108.)

The mere fact that the persons employed on the reservation are employed by a State Commission is not sufficient, in my judgment, to bring them within the language above quoted. This is shown by the amendment to this very section of the Labor Law made by the Legislature in 1900 in adding to the above quoted exception in section 3, the following:

"or to engineers, electricians and elevator men in the department of public buildings during the annual session of the legislature."

(ch. 298, L. of 1900, amending Ch. 415, L. of 1897, as amended by ch. 567, L. of 1899.)

At the time of this last amendment the employees so specifically excepted from the operation of § 3 were under the Trustees of Public Buildings, which Trustees had control of the Department of Public Buildings. It is evident from this amendment that the words "state institutions" were not deemed broad enough by the legislature to include the capitol and other public buildings under the control of the Trustees of Public Buildings. The amendment, therefore, is a legislative interpretation of the meaning of these words in accordance with the opinion herein rendered.

Very truly yours,

(Signed) EDWARD R. O'MALLEY,  
*Attorney-General.*

EIGHT-HOUR LAW DOES NOT APPLY TO EMPLOYEES OF STATE  
RESERVATION AT NIAGARA FALLS WHO EXERCISE POLICE  
POWERS.

ALBANY, July 26, 1910.

HON. JOHN WILLIAMS, *Commissioner of Labor, Albany, N. Y.*

DEAR SIR: I am in receipt of a letter from Acting Commissioner William W. Walling asking for my opinion as to the applicability of the Eight-Hour Labor Law to certain employees of the State of New York at the State Reservation at Niagara Falls, who have police power and wear uniforms with badges. The enclosure accompanying the letter contains a list of employees, among which are those described as police constables, night watchmen, ticket men and caretakers, all of whom possess police powers and are required to work more than eight hours per day.

The provisions of the Labor Law under which this question arises are sections 2 and 3, which read as follows:

"§ 2. Definitions—employee.—The term 'employee,' when used in this section, means a mechanic, workingman or laborer who works for another for hire. \* \* \*."

"§ 3. Hours to constitute a day's work.—Eight hours shall constitute a legal day's work for all classes of employees in this State except those engaged in farm and domestic service unless otherwise provided by law. \* \* \*."

Under the above provisions, the answer to your proposition involves the determination of whether the employees above referred to are employees within the meaning of the Labor Law. It has been held that this provision of the Labor Law does not apply to uniformed members of the fire department of the City of New York. Under the decisions construing the definition of "employee" as used in the above statute, I am clearly of the opinion that the Eight-Hour Law does not apply to employees of the State at the Niagara Reservation who are performing the duties and have the powers of policemen.

Yours very truly,  
(Signed) EDWARD R. O'MALLEY,  
*Attorney-General.*

**EIGHT-HOUR LAW DOES NOT APPLY TO REGULAR EMPLOYEES OF  
STATE INSTITUTIONS ENGAGED IN CONSTRUCTION WORK.**

ALBANY, August 17, 1910.

HON. JOHN WILLIAMS, *Commissioner of Labor, Albany, N. Y.*

DEAR SIR: I have your letter of recent date in which you call my attention to the fact that the Labor Law in section 3 provides that eight hours shall constitute a day's work for all classes of employees in this state, but that this contains a proviso to the effect that persons regularly employed in such institutions are not affected thereby. You also call my attention to the fact that the Legislature in the annual appropriation bill provides a lump sum for the "maintenance" of such institutions and that out of this appropriation are paid the salaries of all persons "regularly employed" therein. In addition to this, in special appropriations sums of money are provided for "construction, additions and improvements" at such institutions. In view of these facts, you ask me whether laborers, workmen or mechanics who are "regularly employed" in such institutions and whose salaries are paid out of the maintenance funds may be employed by the management upon "construction, additions and improvements" which are paid for out of special appropriations, without coming under the general provisions of said section 3.

This question must be answered in the affirmative as it assumes the fact that these men are "regularly employed" in these institutions. Whether or not they come under the provisions of this section depends on the ques-

tion of fact in each instance as to whether or not they are regularly employed at the institution. Neither the nature of the work nor the appropriation from which they are to be paid has any connection with this determination.

Very truly yours,

(Signed) EDWARD R. O'MALLEY,  
*Attorney-General.*

**VIOLATION OF SEMI-MONTHLY PAY LAW BY A RAILROAD MAY  
NOT BE PUNISHED IN MORE THAN ONE COUNTY.**

ALBANY, August 2, 1910.

WILLIAM W. WALLING, Esq., *Acting Commissioner of Labor, Albany, N. Y.*

DEAR SIR: Referring to your letter of the 1st inst., I beg to advise that a conviction of a violation of the semi-monthly pay provisions of the Labor Law in any one county of the state for a given month will act as a bar for conviction of same offense of the same road in any other county.

Very truly yours,

(Signed) EDWARD R. O'MALLEY,  
*Attorney-General.*

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